No. 133.

Sup. Ct. Bf. of Atty. Genl (Richards & Reynolds) for U. S.

Filed March 1, 1901.

Office Supreme Court U.S.
FILED
MAR 2 1901
Clerk.

In the Supreme Court of the United States.

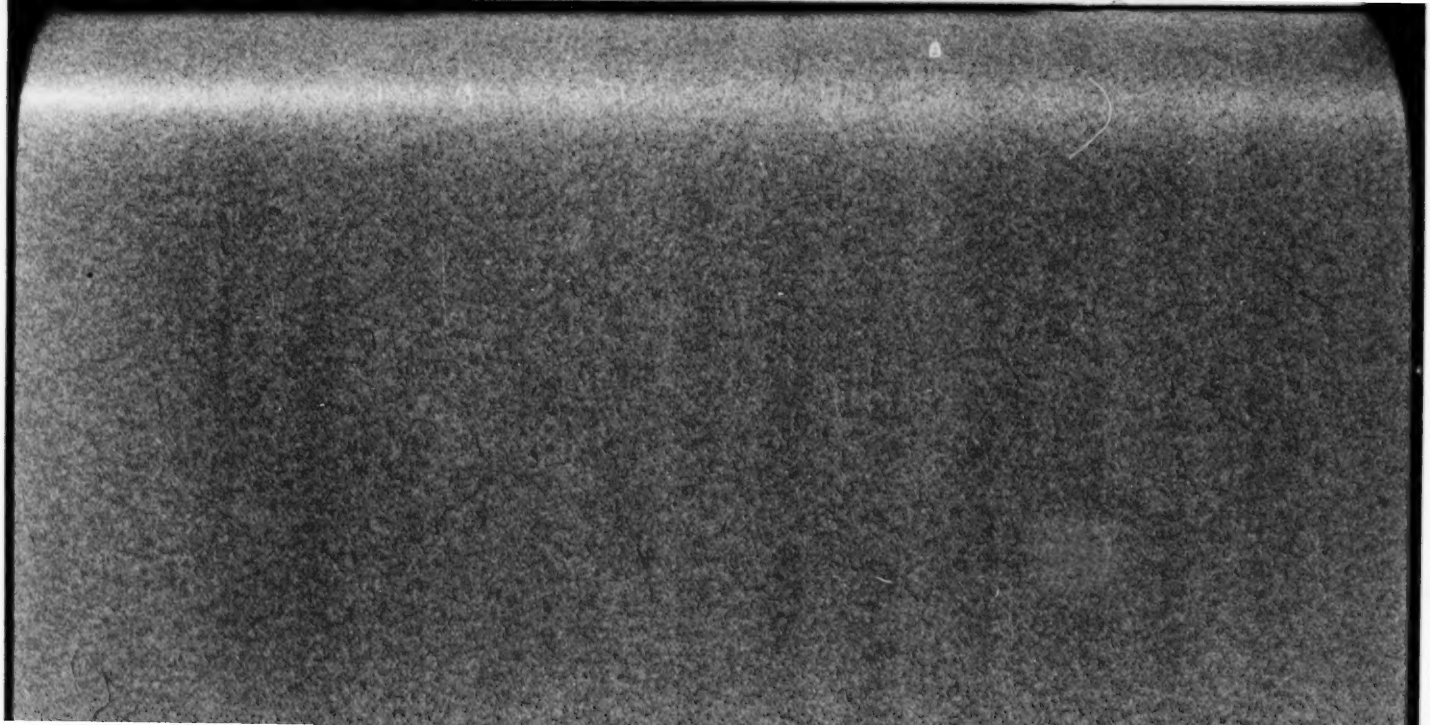
OCTOBER TERM, 1900.

JOEL PARKER WHITNEY ET AL., APPELLANTS,
v.
THE UNITED STATES ET AL. } No. 133.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

ESTANCIA GRANT IN NEW MEXICO.

SUPPLEMENTAL BRIEF ON BEHALF OF THE UNITED STATES.



In the Supreme Court of the United States.

OCTOBER TERM, 1900.

JOEL PARKER WHITNEY ET AL., APPELLANTS,
v.
THE UNITED STATES ET AL. } No. 133.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

ESTANCIA GRANT IN NEW MEXICO.

SUPPLEMENTAL BRIEF ON BEHALF OF THE UNITED STATES.

Since filing the original brief of the Government, its counsel have had courteously placed in their hands a copy of the brief of the opposing counsel. Its ingenious and elaborate argument, by which is sought to be established the principle that the governor of New Mexico, on December 7, 1845, possessed powers and prerogatives of an absolute and dictatorial nature, not only for the disposition of the public lands, but generally as to all matters military, fiscal, and of other executive provinces (and, inferentially, also legislative and judicial), has suggested a reply which it will be the endeavor to confine to our conception of the effect of the laws by which limitations were clearly placed upon departmental assemblies and governors.

The powers specifically claimed for Governor Armijo are best stated in the language of counsel himself, viz:

> Manuel Armijo, as governor and commandant general of that department, was the trusted minister and agent of the quasi dictatorial Supreme Executive of Mexico, and duly acted as such in making the grant in the name of the Supreme Government, and was not restricted by any prescribed rules or limitations. (Appellants' brief, p. 82.)

No more absolute power over the disposition of the vacant public lands, the property of the nation, can well be stated, and upon the sustaining of which alone can counsel hope to cross the first barrier erected by Congress in the creative act of March 3, 1891, that "no claim shall be allowed that shall not appear to be upon a title lawfully and regularly derived from the Government of Spain or Mexico, or from any of the States of the Republic of Mexico having lawful authority to make grants of land." (Section 13, subsection first.)

It is open to serious question whether the Supreme Executive of the Mexican Nation ever possessed such absolute and dictatorial powers. Indeed, they were never delegated to him by any law, constitution or provisional constitution, much less was authorized their subdelegation to a petty departmental governor or local military commander.

The contention that there reposed in the Supreme Executive absolute, arbitrary, and dictatorial powers is fatally vitiated by the opinion of this court in the

Camou Case (171 U. S., 277, 290). The Government's counsel in that case endeavored with much effort to induce the court to clothe with such prerogatives Santa Anna, dictator *de facto* during one of "the occasional interruptions of constitutional government," feeling fortified in this undertaking by the fact that the United States had recognized that dictator in negotiating with and purchasing from him the territory within the Gadsden purchase; but even under these persuasive circumstances the court declined to acquiesce in this view, and applied restrictions incident to "a popular government under a constitution which defined rights, duties, and powers." How vain, then, it seems for counsel to make a similar plea for the subdelegate of this same dictator, Santa Anna, who had upon June 13, 1843, promulgated a new constitutional plan called "Bases Organicas." (Comp. Laws, Vol. IV, p. 429, No. 2576; Reynolds, 243–248.) This new or provisional constitution defined "rights, duties, and powers," particularly those to be exercised by the departmental assemblies and governors, and excepted no department from their operation.

The forceful argument of counsel, however, if of no more serious influence, at least calls forth a sympathetic gratitude for such an able exploitation of a contention upon the success of which once depended what is now a "lost cause."

These spasmodic and revolutionary departures in orderly constitutional form of government were occasioned more by the desire to displace one set of officials

with another rather than to overturn and supplant a constitutional government by one in which the will and pleasure of the supreme head became the law. The purpose of achieving independence was to bring the country under a government by the people. They had suffered much in their personal and property rights at the hands of major and petty officials, and the dominant thought was to bring them all under constitutional law "which defined rights, duties, and powers." The conferring of rights by the violation of such principle imposed no obligation upon the country to respect them, and the Supreme Executive was not exempt from its restrictions

In numerous cases heretofore submitted to this court, counsel for the Government have submitted briefs upon the effect of the laws of the Republic relative to the disposition of the public lands, passed subsequent to the adoption of the constitution of 1836, notably in the following Arizona cases:

Ainsa, administrator, v. *United States* (161 U. S., 209).

United States v. *Coe* (170 U. S., 681; s. c. 174, U. S., 518).

Ely's administrators v. *United States* (171 U. S., 220).

Faxon v. *United States* (171 U. S., 244).

Camou v. *United States* (171 U. S., 277).

And specially in the following cases from New Mexico:

United States v. *Ortiz* (176 U. S., 422).

United States v. *Elder* (177 U. S., 244).

The latter case was determined upon other grounds, and the laws in force and the powers of governors and departmental assemblies were not passed upon.

Counsel seems to rely much upon article 141 of the Bases Organicas as establishing Governor Armijo as the confidential agent of the supreme executive, hence secretly clothed with supreme dictatorial powers. It is as follows (Reynolds, 247):

> The governors are the only and necessary conduct of communication with the supreme authorities of the Republic. The cases of accusation or complaint against themselves and the official correspondence of the superior tribunals with the supreme court of justice in judicial matters are excepted.

Whatever administrative functions the chief executive may have conferred upon Armijo, and of these we have no information, yet the very "Bases Organicas," which have been treated as a provisional constition, specifically recognizes that the country did not lapse into absolute dictatorship even in the many rapid and revolutionary changes of chief executives.

In determining the laws for the departments, and defining the powers and duties of the departmental assemblies and governors, Section V of article 134 of the "Bases Organicas" provides, in relation to departmental assemblies (Reynolds, 244):

> To decree what is convenient and in harmony with the laws with respect to the acquisition, alienation, and exchange of the property (bienes) that may belong to the community of the Department. *As to the alienation of lands* (*terrenos*), *the*

existing laws and what the colonization laws provide shall be observed.

Hence, in view of this provision, it is going too far to say that there was no law of the Republic for the disposition of the public lands which the centralized government or the chief executive recognized.

While it may be impossible to determine whether the laws of the Republic passed in pursuance of the declaration of the act of April 4, 1837, or the colonization law of August 18, 1824, or both, were intended by the clause, "as to the alienation of lands (terrenos), *the existing laws* and what *the colonization laws provide shall be observed*," it is nevertheless patent that the two grants made by Armijo to Sandoval in November and December, 1845 (to wit, the Bosque del Apache and Estancia), complied with neither, and appellants' counsel is compelled to rely upon the presumptive authority from the supposed continued and repeated exercise of the sovereign power to dispose of the public domain. An examination of the records relative to this alleged custom on the part of Armijo does not furnish foundation for this contention of counsel.

In the case of *Chavez* v. *United States* (175 U. S. 552), the Government caused to be compiled from the records and reports, by Mr. Tipton, special agent of the Department of Justice, an abstract showing the extent and under what circumstances the vacant public lands in New Mexico were disposed of, from independence in 1821 up to the time of the American occupation in 1846, and the following statement showing the

grants made by Governor Armijo, with some additional comment, is excerpted from that abstract:

October 16, 1837. The Alvarez grant. By Manuel Armijo, governor of New Mexico. Reported No., 143. Suit No. 231 in the Court of Private Land Claims. Rejected by Court of Private Land Claims October 5, 1898.

This was a grant made to one individual, who, in petition for it, stated his object to be the raising of stock, principally sheep, which he expected to improve by the introduction of Merinos; and the grant was made to him upon a condition suggested by himself, that within three years he was to carry into effect the enterprise of raising Merino sheep. Possession of a large tract within certain natural boundaries was given the applicant by an aicalde, but it is understood that the condition imposed by the governor was never fulfilled. There is no evidence in the case that the grant was an allotment under a prior grant or that its object was anything more than above indicated.

March 14, 1838. The Jose Sutton grant. By Manuel Armijo, governor of New Mexico. Reported No., 45. Suit No. 143 in Court of Private Land Claims. Rejected by Court of Private Land Claims December 20, 1898.

This was a grant made to one person for a tract of land 16 square Spanish leagues, or more than 69,000 acres, for the purpose of constructing thereon, within three years from the date of being placed in possession, a factory of ordinary woolen fabrics and commencing the raising of Merino sheep. The grantee was to be placed in

possession whenever he saw fit, but he never applied to anyone to place him in possession, and failed to fulfill any condition attached to the grant. It was an absolute grant upon the conditions described.

(House Ex. Doc. 112, Thirty-seventh Congress, second session, p. 4.)

March 22, 1839. Sanguijuela grant. By Santiago Ulibarri, constitutional alcalde of San Miguel del Vado. Alleged to have been approved by Manuel Armijo, governor of New Mexico, on May 8, 1842, and granted anew by him on October 3, 1843. Suit No. 170 in Court of Private Land Claims. Rejected by Court of Private Land Claims June 7, 1898.

This grant was made in 1839 to five persons, who, in their petition therefor, stated it was within the boundaries of the Las Vegas grant. The alcalde, in making the grant, stated that the petitioners should observe and comply with all the requirements that the law of colonization prescribed. The Court of Private Land Claims, in rejecting the grant, did so on the ground that the title papers presented were inadmissible as evidence. It does not appear that this grant was intended as an allotment under the grant to the town of Las Vegas, but rather it was made by the exercise of that power of control and disposition over lands assigned to a town, but undisposed of, which was frequently employed under the Mexican Government in New Mexico, where the granting of lands within the outboundaries which had been assigned to a town or community would not result in injury to the latter.

March 23, 1840. Juan Salas or Los Alamitos grant. By Governor Manuel Armijo. Reported No., 69. Suits 91 and 183 in Court of Private Land Claims.

This grant was made for purposes of cultivation to twelve persons, to each of whom an instrument was given describing the allotment of which he became the owner; but this was not done until Governor Armijo had submitted the petition to the common council of Santa Fe, which made thereon favorable report. And it appears from the whole proceeding that while the lands granted and allotted were not within the boundaries of any grant of which they were acknowledged to be a part, they were within the Territory over which the common council of ayuntamiento of Santa Fe exercised some sort of control. The cultivated lands were to be fenced as a protection against stock belonging to the people of the city of Santa Fe and vicinity.

(Senate Ex. Doc. 37, Forty-second Congress, third session, p. 10.)

This grant was confirmed by the Court of Private Land Claims to the extent that it did not conflict with the Juan Lopez grant, theretofore confirmed by Congress. The Government appealed, and it was discovered that only a small portion of the grant lay outside of the patented Juan Lopez grant, whereupon the appeal was dismissed by stipulation.

The next grant made by Governor Armijo was the celebrated Maxwell grant, made January 11, 1841. Reported No., 15. Confirmed by Congress June 21,

1860 (House report 457, Thirty-fifth Congress, first session, p. 237). This grant was before this court (121 U. S., 325), and on motion for rehearing (122 U. S., 365), the court held that it was an *empresario* grant, although the decision was based upon the action of Congress confirming the grant according to the report of the surveyor-general, recommending confirmation to the full extent of the boundaries claimed. This grant has been referred to by counsel as one of the evidences of the exercise of Armijo's arbitrary power and unlimited disposition of the public lands.

March 20, 1841. Town of Chilili grant. By Governor Manuel Armijo. Reported No. 11. Confirmed by Congress December 23, 1858.

This was a grant to twenty-seven persons of a tract of land described by natural objects within which the petitioners, who are referred to as colonists, were to be allotted portions of the tillable lands. The settlement made under this grant was the foundation of the present town of Chilili.

(House report 457, Thirty-fifth Congress, first session, p. 182.)

December 1, 1843. Rio de Don Carlos or Gervasio Nolan grant. By Manuel Armijo, governor of the department of New Mexico. Reported No. 48. Confirmed by Congress July 1, 1870. (House Ex. Doc. 112, Fifty-seventh Congress, second session, p. 30.)

Situate in the State of Colorado. This grant was apparently made to Gervasio Nolan alone, although in his petition he stated that it was

his intention to settle thereon, cultivate it, put stock on it, and establish a colony; and in his request to the justice of the peace to be placed in possession he says, "the governor of the department having donated us," etc., which indicates that although unnamed in the proceedings, there were persons whom the petitioner considered in some way associated with him in the grant, although he alone was named.

The next was the Las Animas or Vigil and St. Vrain grant, made by Governor Armijo, December 9, 1843, of about 4,000,000 acres, and was confirmed by Congress on June 21, 1860, to the extent of 22 square leagues. This was evidently an *empresario* grant, so understood by Congress and so appears on its face (House report 457, Thirty-fifth Congress, first session, p. 269). This grant was before this court in the present term in the case of the *Las Animas Land Grant Company* v. *The United States*, and the decision of the Court of Private Land Claims, to the effect that the action of Congress in confirming the grant to the extent of 22 leagues was a final action upon the claim by Congress, and therefore within the prohibition of jurisdiction contained in the creative act of March 3, 1891, was affirmed. This is another one of the grants referred to by counsel as evidence of the arbitrary disposition of the vacant public lands by Armijo.

The next is:

> December 30, 1843. Sangre de Cristo grant. By Governor Manuel Armijo. Reported No., 4. Confirmed by Congress June 21, 1860. (Senate Ex. Doc. 141, Forty-seventh Congress, first session, p. 13.)
>
> This grant is in nearly all respects like the two immediately preceding, the grantees named being but two in number and reciting their intention to establish a colony.

This is also one of the grants referred to by counsel. See *Tameling* v. *United States Freehold, etc., Co.* (93 U. S., 644, 647–649).

> November 18, 1845. The Gervasio Nolan grant. By Governor Manuel Armijo. Reported No., 39. Suit No. 46 in the Court of Private Land Claims. Rejected by the Court of Private Land Claims April 16, 1894.
>
> This grant was made to three persons, apparently in consideration of the services rendered to the country by all and especially one of them. It was for an immense tract of land upon which they particularly desired to raise stock, the amount of land susceptible of cultivation being small. The petition was directed to the governor, who, without the concurrence of the departmental assembly or the report of any subordinate official, made the grant.
>
> (House Ex. Doc. 28, Thirty-sixth Congress, second session, p. 2.)

This grant was prosecuted before the Court of Private Land Claims by Mr. Frank Springer, resulting

in the rejection of the claim because of want of authority in Armijo to make the grant, especially upon the consideration named. An appeal was taken to this court (*Pinkerton's heirs* v. *United States*, No. 31, October term, 1897), but the appellants failing to print the record, the appeal was abandoned and dismissed by the court. This is the first instance of a grant being made by Armijo for any other purpose than that of colonization and cultivation.

> November 28, 1845. The Bosque del Apache grant. By Governor Manuel Armijo. Confirmed by Congress June 21, 1860. Reported No., 35. (House Ex. Doc. 14, Thirty-sixth Congress, first session, p. 232.)
>
> This was a grant made to Antonio Sandoval in recognition of the valuable services he had rendered to the country "not only personally, but also with his property, in forced loans and in other ways." The grant was made "exempt from tax."

This is the grant which has been frequently referred to by counsel for the Government in discussing the present case, as made to the same grantee, just eleven days before the Estancia grant and upon the same consideration (R., 82–84).

The next grant is the Estancia, involved in the case under discussion.

The next grant is the Cebolla, December 31, 1845, and was before this court in the recent case of *United States* v. *Elder* (177 U. S., 244).

May 7, 1846. The John Scolly or La Junta grant. By Governor Manuel Armijo. Reported No., 9. Confirmed by Congress June 21, 1860. (House Report 457, Thirty-fifth Congress, first session, p. 163.)

This grant was made to six persons, who were to cultivate their lands within five years on the pain of losing them and having them given to someone else. It does not appear how large the allotments of tillable lands were, but the amount included within the limits fixed in the act of possession was 25 square leagues; but Congress, in confirming the grant, reduced this to 5 square leagues. This was evidently not a series of allotments under either the Mora or Las Vegas grants, although a large part of the land is in conflict with those grants.

The last grant purporting to have been made by Armijo, as appears from the archives, is the Sierra Mosca grant, of June 4, 1846, which was before this court in *Ortiz et al.* v. *United States* (176 U. S., 422), the court holding it to be invalid for absence of proof sufficient to sustain the execution, and because of the strong probability that the signature of Armijo had been forged.

So that, a résumé of Armijo's grants will show that only three purport to have been made as rewards for services or in consideration of pecuniary advances to the country, to wit:

(1) The Gervacio Nolan grant, dated November 18, 1845, for about 600,000 acres, lying adjacent to and just south of the Maxwell grant. The petition for the grant was signed by three persons, to wit: Gervacio

Nolan, Juan Antonio Aragon, and Antonio Maria Lucero, and was dated November 15, 1845. The title papers translated are as follows, and may be found in the transcript No. 15742, case 31, October term, 1897 (*Pinkerton* v. *United States*):

No. 4.

Seal third.—One dollar.

Years eighteen hundred and forty-four and eighteen hundred and forty-five.

[SEAL.]

MOST EXCELLENT GOVERNOR: The Citizen Gervacio Nolan, and associates, native of Cañada, married, of the Christian religion (R. & A.), resident of the Real del Oro, in San Francisco del Tuerto, before the benevolence of your excellency, in the best manner provided by law, and most convenient to us, reserving such protests as may be useful and necessary, appears and states, sir, that whereas I have observed in this department there is a great deal of vacant land, and under mortmain, that being cultivated would be beneficial to the inhabitants of the country, and desiring to furnish occupation for a large family I have, I have found a piece of land, in the little cañon of Red River, vacant, unpopulated, and uncultivated, and without damage to any third party, being situated to the south of the possession of Messrs. Miranda and Beaubien, which, in the name of our supreme powers of the Mexican nation, we solicit from the benignity of your excellency to be pleased to grant us the favor of giving us the possession

of said land, marking out to us, as its boundaries, on the north, the possession of said Messrs. Miranda and Beaubien; on the south, one league in a direct line, including the Sapello River, according to its current (cordillera); on the west, another league from Red River and its current; and on the southeast, the little hills of Santa Clara, with their range, to the little cañon of Ocaté. It is to be observed that a very small portion of said lands is susceptible of cultivation; but what is more important is to establish the raising of horned cattle, sheep, and horses. And in order that your excellency be more fully informed of my intentions, that they are pure, I will make a short report of my conduct, which, being plain and evident, its merits may secure this grant to me, as I have resided in this country for twenty-three years, and I have rendered service whenever called upon for the benefit of the nation, such as campaigns, express contributions, &c. I therefore implore the assistance of your excellency that you be pleased to favor us with this grant. In view of all which, we humbly pray and request your excellency to grant our petition, by which we will receive the grant and favor we impetrate. We swear to our good faith, protesting costs and whatever may be necessary, &c.

Real de San Francisco en la Tuerto, Nov. 15th, 1845.

Gervacio Nolan.	[Rubric.]
Juan Antonio Aragon.	[Rubric.]
Antonio Maria Lucero.	[Rubric.]

SANTA FE, *November 18, 1845.*

By virtue of the career of merit, so analogous as represented by the petitioner and his associates, I have seen proper to grant the land petitioned for in the name of the supreme Government of the Mexican Nation; and this Government, in consideration of the above, and the services he himself has rendered to the nation, I have seen proper to grant unto him the aforesaid land, with the boundaries and limits he asks for, by virtue of the authority in me vested according to law, free from all tax and tribute; therefore the petitioner will present himself to the justice of the peace of De Mora, that he may put him in possession and execute the necessary documents.

MANUEL ARMIJO. [Rubric.]

In this place of Lo de Mora, on the thirtieth of the month of November, in the year one thousand eight hundred and forty-five, I, the justice of the peace, citizen Thomas Benito Lalanda, and my attending witnesses, with whom I acted by appointment, in the absence of a notary public, there being none, according to law, and in obedience to the supreme decree of the most excellent governor, as contained in the margin, dated the 18th of November of the present year, in reference to the petition made by Gervacio Nolan and associates, and, by virtue of the grant of land which he solicits, I proceeded in company with the aforesaid witnesses, and the party interested being present, I showed him the petition made by

him, and the rules and conditions to which he should conform, according to the custom of the country in regard to colonization, and, having informed himself of all that was proposed to him, I took him by the hand and walked him over said land, where he pulled up grass, threw stones, and cried with joy, Long life to the sovereign constitutional Congress of the Union, taking possession of said land quietly and peacefully, without injury to any third party or to the national credit of the Mexican nation. He was, at the same time, pointed out the boundaries of said possessions. They are: On the north, the lands of Don Guadalupe Miranda and Don Carlos Beaubien; on the south, 1 league south of the Sapello River; on the east, 1 league west of Red River, following the same range; and on the west, the little canyon of Ocaté, and 500 varas west of the little hills of Santa Clara, in a direct line.

It being understood that the pastures and watering places are for all the petitioners in common, and that the said grant is made in conformity to the petition, being free from all pension, also from all tax, tribute, and mortgage, or other incumbrance, that they, their children, heirs, and successors may enjoy said lands without being in anywise molested by any person at any time; and if they should be disturbed by any person, that he be not heard in court or out of it, this being equal to any judgment rendered, agreed to, and not appealed, and the possession is in like manner given to him *ad litem*, for all purposes; and, in order that the present

deed of grant may have all the force and validity the law requires, interpose the authority conferred upon me, signed, in order that it may appear with those in my attendance; to all of which I certify.

THOMAS BENITO LALANDA.
[Rubric.]

Attending:
CRESTINO TAPIA. [Rubric.]
SERVIANO GOMES. [Rubric.]

Fees, without the paper, twenty-five dollars. I swear it. [Rubric.]

On May 27, 1848, Aragon and Lucero conveyed whatever interest they may have acquired to Nolan in consideration of $50 paid to each, and Nolan became the owner of the entire 600,000 acres. (See transcript No. 15742, in the office of the clerk of this court, in the case of *Pinkerton's heirs* v. *United States*, docketed No. 31, October term, 1897.) The same was also considered by this court in an ejectment suit of *Pinkerton* v. *Ledoux* (129 U. S., 346). This same Gervacio Nolan is alleged in the petition to have been the nephew of Antonio Sandoval and his especial object of favor, as Sandoval conveyed this (Estancia) grant to him by deed of donation of July 8, 1848 (R., 3, 46, 47). The Juan Antonio Aragon who received possession of the Estancia grant as agent of Sandoval is evidently one of the grantees in this Nolan grant.

(2) The Bosque del Apache grant of November 28, 1845, to Sandoval, heretofore discussed. (R., 82–84.)

(3) The Estancia grant, now under consideration, to Antonio Sandoval, dated December 7, 1845 (R., 45).

These three are the only instances wherein Governor Armijo undertook to dispose of the public domain as rewards for services or in payment of pecuniary obligations. It is these three grants, all made within three weeks, to members of one family, already the recipients of a lavish generosity of the public domain, upon which the appellants must found their custom, so long and uniformly indulged in by Governor Armijo, that it is to be presumed that he was clothed with supreme and dictatorial powers to dispose of the public domain without limit and without price. These three grants, all made within six months of the declaration of war, May 13, 1846, and from which time the authority of Mexican officials to lawfully exercise whatever powers they may have in fact possessed relative to the public domain ceased.

The "Bases Organicas" recognized by article 134, Section V, there were laws in force prior to its date relative to the alienation of the public lands and also laws for colonization of the same, and these were specifically continued in force, leaving no room for the intervention of dictatorial exercise of the sovereign powers by the governor of a department of the republic.

It is therefore contended that the grant complies neither with the colonization law of August 18, 1824, and regulations of November 21, 1828, nor with the laws passed under the constitution of 1836, and declared policy by the law of April 4, 1837; hence the

grant is without lawful origin, imposing no obligation upon the Mexican nation and none upon its successor.

Respectfully submitted.

JOHN K. RICHARDS,
Solicitor-General.

MATTHEW G. REYNOLDS,
Special Assistant to the Attorney-General.

()

Office Supreme Court U.S.
FILED
MAR 1 1901
JAMES H. McKENNEY,
Clerk.

No. 133.

In the Supreme Court of the United States.

OCTOBER TERM, 1898.

~~J. FRANCISCO CHAVEZ, APPELLANT,~~
~~v.~~
~~THE UNITED STATES.~~ } No. 133.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

~~HERIC ANTONIO MONTOYA GRANT IN NEW MEXICO.~~

[redacted] ABSTRACT OF ARCHIVES.

In the Supreme Court of the United States.

OCTOBER TERM, 1898.

J. FRANCISCO CHAVEZ, APPELLANT, v. THE UNITED STATES. } No. 88.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

NERIO ANTONIO MONTOYA GRANT IN NEW MEXICO.

SUPPLEMENTAL BRIEF AND ABSTRACT OF ARCHIVES.

With a view of showing when, by what official, to whom, for what purpose, the extent and under what circumstances the vacant public lands in New Mexico were disposed of or attempted to be disposed of, from independence in 1821 to the American occupation in 1846, the Government presents a carefully compiled abstract or summary taken from the archives and files in the office of the surveyor-general of New Mexico and the files of the Court of Private Land Claims. This abstract has been made by Mr. Will M. Tipton, special agent of the Department of Justice, under the direction of counsel for the Government; and for our present purposes, the various "grants" have received an arbitrary consecutive

numbering, from 1 to 101, in their chronological sequence, without regard to their official designation as archives or reports.

There is included in this summary, as No. 1, a letter from Facundo Melgares, governor of the province of New Mexico, by which it appears that the reestablishment of the constitution of 1812 was duly promulgated in Santa Fe, the capital of New Mexico.

There is also included, as No. 51, a copy of archive 1244, dated March 13, being an unsigned draft of a grant to Antonio Armijo and seventy families of lands at the junction of the Sapello, M[illegible] and Coyote rivers, which was referred to in the original brief as showing that the colonization law of 1824 and the regulations of 1828 were recognized as being in force at and prior to that date.

The rest of the summary includes ninety-nine "grants" or attempted dispositions of the vacant public lands in New Mexico. The information as to thirty of these was obtained from the archives in the office of the surveyor-general for New Mexico. As to sixty-four of them, from the papers produced from private hands and filed before the surveyor-general under the law of July 22, 1854, and before the Court of Private Land Claims, and as to five of them information was gleaned from the journals of the Territorial deputation, on file with the surveyor-general.

It is believed that this summary is as accurate as it is possible to make it without printing in full the archives and reports themselves. An examination of it will develop, as suggested in the original brief, that every official and official body in New Mexico attempted to

dispose of the vacant public lands of the nation at some time during this period, and that no such general custom and usage ever obtained in the Territory as would justify and require it to supersede, as the practice and procedure in such cases, a known law, even if such were permissible under the act of March 3, 1891.

From Mexican independence in 1821 to November 21, 1828, the date of the promulgation of the regulations under the colonization law of 1824, thirty-two "grants" were made of lands in New Mexico, of which five were made by political chiefs and acting political chiefs (to wit, Nos. 10, 11, 12, 13, and 29); one by the governor (No. 6); one by the lieutenant-governor (No. 7); two by alcaldes (to wit, Nos. 21 and 24); six by common councils—ayuntamientos—(Nos. 2, 3, 4, 5, 8, and 9); one by the provincial deputation (to wit, No. 14); fifteen by the Territorial deputation (to wit, Nos. 15, 16, 17, 18, 19, 20, 22, 23, 25, 26, 27, 28, 30, 31, and 32), and one by the governor of Chihuahua (to wit, No. 33).

As to this period, the abstract requires no additional comment further than to suggest that a large proportion of the thirty-two "grants" were intended to be allotments and assignments of small quantities of agricultural lands, a majority of which were under previously existing grants for the establishment of towns or the promotion of colonization in communities under the jurisdiction of municipal bodies and their ayuntamientos, all of which were subject to the general control of the Territorial deputation.

Of the fifteen so-called "grants" made by the Territorial deputation, only Nos. 16, 17, 19, 27 (the entry in the journal of the Territorial deputation recites that the

decree of January 4, 1813, enacted by the Cortes of Spain, was in force at that time, March 17, 1836), 30, and 31 appear to be original grants of the vacant public lands, and not allotments under previously existing town or community grants, but as to this fact, the evidence at hand is very defective and much is necessarily and generously left to surmise. The others are unquestionably allotments under previously existing town and community grants.

From November 21, 1828, to December 29, 1836, the date of the adoption of the new constitution, fifteen "grants" were attempted—four by political chiefs (to wit, Nos. 41, 43, 45, and 47); six by the Territorial deputation (to wit, Nos. 35, 36, 37, 39, 40, and 44); one by the common council (to wit, No. 48); three by alcaldes (to wit, Nos. 34, 42, and 46); and one by the State of Coahuila and Texas (to wit, No. 38).

During this period, all of the fifteen so-called grants, except the grant involved in the case at bar (No. 37) and No. 42, which was a mining location under the old Spanish ordinances of 1783 and known as the Ortiz Mine grant, were allotments under previously existing grants, or were grants for the establishment of new towns and communities under which allotments were had, except No. 38, which was an empresario grant, and known as the Arkansas or Beale's Colony grant.

From December 29, 1836, to the American occupation in 1846, fifty-two "grants" were attempted; sixteen by governors (to wit, Nos. 52, 53, 58, 62, 64, 66, 76, 77, 78, 83, 90, 91, 92, 93, 99, and 100); four by the departmental assembly (to wit, Nos. 88, 89, 95, and 98); thir-

teen by prefects and acting prefects (to wit, Nos. 56, 60, 61, 65, 67, 68, 69, 75, 79, 80, 81, 82, and 96); five by justices of the first instance (to wit, Nos. 84, 85, 86, 87, and 101); thirteen by alcaldes and justices of the peace (to wit, Nos. 49, 50, 54, 55, 57, 59, 63, 70, 71, 72, 73, 74, and 97), and one by the State of Texas (to wit, No. 94).

During this period the summary shows that twenty-five of these "grants" were evidently allotments or assignments under previously existing grants to towns, communities, or settlements (to wit, Nos. 49, 50, 54, 55, 57, 58, 59, 60, 61, 63, 68, 72, 73, 74, 75, 79, 80, 81, 82, 84, 85, and 86); eleven were new settlements and allotments thereunder (to wit, Nos. 56, 62, 65, 66, 67, 69, 70, 89, 93, 98, and 99); four were empresario grants (to wit, Nos. 64, 76, 77, and 78); ten were new grants to individuals by the governors of New Mexico (to wit, Nos. 52, 53, 83, 88, 90, 91, 92, 94, 95, and 100), and two were mining locations (to wit, Nos. 71a nd 101).

The following table, compiled from the abstract of the archives, will prove interesting as showing by what functionaries and bodies grants purport to have been made in New Mexico during the period 1821 to 1846 and the numbers made by each:

Political and acting political chiefs	9
Governors	16
Lieutenant-governors	1
Alcaldes	3
Justices of the peace	8
Judges of first instance	5
Ayuntamientos (common councils)	7
Prefects and acting prefects	13
Constitutional justices or alcaldes	7

Provincial deputations	1
Territorial deputations	21
Departmental assemblies	4
State of Coahuila and Texas	1
State of Texas	1
Governor of Chihuahua	2
Total	99

The abstract further reveals that no class of officials or official bodies confined themselves to dispositions of one particular character, but attempted "grants" of various kinds. This fact, taken in connection with the foregoing table, tends rather to disprove than to prove the assertion of appellant's counsel that such a well defined and established custom or usage existed in New Mexico as would constitute an abrogation of the known and existing law at that time relative to grants of land, even if the court were permitted, by the terms of the act of 1891, to indulge in any such portentious presumption.

Thus, it seems we are permitted no criterion save, Is the claim involved in the case at bar one that appears "to be upon a title lawfully and regularly derived from the Government of * * * Mexico?" Obviously, it is not.

The judgment of the Court of Private Land Claims should be affirmed.

Respectfully submitted.

JOHN K. RICHARDS,
Solicitor-General.

MATTHEW G. REYNOLDS,
Special Assistant to the Attorney-General.

ABSTRACT OF ARCHIVES.

No. 1. **1820.**

December 31. Archive 1088.

This archive consists of two papers.

The first is a printed proclamation by the Count of Venadito, viceroy of New Spain, dated September 18, 1820, and issued for the purpose of circulating throughout the vice-royalty the royal decree of March 26, 1820, the full text of which is therein included.

This decree imposes penalties upon every Spaniard who refuses to swear allegiance to the political constitution of the monarchy, or who, upon taking the oath, resorts to protests, reservations, or indications contrary to the spirit thereof.

This proclamation is signed with the rubric of the viceroy and the signature of a secretary.

On the margin is a written indorsement in the following words: "Durango, November 2, 1820. Let it be published in the district of the provinces under my command. Alejo Garcia Conde."

The second paper in this archive is a letter from Facundo Melgares, governor of the province of New Mexico, dated December 31, 1820, and directed to the first alcalde of Santa Fe, inclosing a copy of the above proclamation and requiring him to publish it in the territory under his jurisdiction, and to acknowledge its receipt.

A translation of the archive is as follows:

TRANSLATION OF ARCHIVE 1088.

Don Juan Ruiz de Apodaca y Eliza Lopez, de Letona y Lasqueti, Count of Venadito, Grand-Cross of the military and national orders of St. Ferdinand, and St. Hermenegild, commander of Ballaga and Algarga in that of Celatrava and of the decoration of the Lis del Vendé, lieutenat-general of the national army, viceroy, governor, captain-general and superior political chief of this New Spain, subdelegate superintendant-general of the public exchequer, mines, and tobacco bureau, judge-conservator of the latter, president of its board, and subdelegate-general of mails in the same Kingdom, etc.

The following royal order has been communicated to me by the ministry of war.

"Ministry of War.=Most Excellent Sir.=The acting secretary of the government of the Peninsula states to me the following.=Under date of to-day the King has been pleased to direct to me the following decree.=The constitution of the Monarchy, to which I have sworn allegiance, being the fundamental law which regulates the rights and duties of all Spaniards with respect to the Throne, to the nation, and between themselves, and considering that those who refuse to recognize the fundamental law of a State by the act itself renounce the protection of said law, all the advantages of the society that acknowledges it, and even the right to live in its territory, I have decided to declare in conformity with the decree of the general and extraordinary Cortes of August 17, 1812, and with the concurrence of the provisional council (*junta provisional*), that every Spaniard who may refuse to swear allegiance to the political constitution of the Monarchy, or who upon doing so may resort to protests, reservations, or indications contrary to the spirit thereof, is unworthy to be considered a Spaniard, by the act itself

is deprived of all honors, employments, emoluments, and prerogatives proceeding from the civil power, and shall be expelled from the territory of the Monarchy, and, should he be an ecclesiastic, shall moreover suffer the occupancy of his temporalities. And I charge the political chiefs and other constitutional authorities, under the strictest responsibility, with the execution of said decree and penalties. You will have it understood and will direct what is proper for its fulfillment.=It is signed with a rubric.=By royal order I communicate it to your excellency in order that you observe and promptly execute it, publishing it in the province under your command and circulating it to whomsoever it may be proper. God preserve your excellency many years. Madrid, March 26, 1820.=By the same royal order I transmit it to your excellency for the same purposes. God preserve your excellency many years. Madrid, April 2, 1820.=Amarillas.=To the Viceroy of New Spain."

And in order that it may come to the notice of all, and that the decision of His Majesty may be complied with, I command that it be published by proclamation in this capital, and in the other cities, towns, and villages of the Kingdom, copies being circulated to whomsoever it may be proper. Given at Mexico, September 18, 1820.

THE COUNT OF VENADITO. [RUBRIC.]

By command of his excellency:
[Signed]
JUAN IGNACIO NEGREYROS Y SORIA. [RUBRIC.]

DURANGO, *Nov. 3, 1820.*

Let it be published in the district of the provinces under my command.
[Signed] ALEJO GARCIA CONDE. [RUBRIC.]

I herewith transmit to you a copy of a proclamation, including a royal order in relation to the imposing of

penalties upon those who may refuse to swear allegiance to the constitution or who upon doing so may resort to protests or indications, to the end that you publish it in the district under your charge, giving me notice of its receipt and fulfillment.

God preserve you many years.

Santa Fe, Dec. 31, 1820.

[Signed] FACUNDO MELGARES. [RUBRIC.]

To the first appointed alcalde of this capital.

No. 2. **1822.**

Archives 616. April 8. The Maria Nieves Mirabal grant. By the common council of Santa Fe.

This is one of nineteen allotments which had been ordered made by the common council of Santa Fe to settlers at Galisteo. The tract was 100 varas wide and 756 varas long. The possession was given by Pedro Armendaris, first alcalde of Santa Fe. The lands are situated at Galisteo, a town which is still in existence, and it is stated in the muniment that the lands are the same lands which the grantee had been holding under a verbal order of Don Alberto Maynez, who had formerly been an acting governor of the province. Maynez was acting governor some time about 1815–1817.

No. 3. **1822.**

Archive 892. April 8. The Matias Sandoval grant. By the common council of Santa Fe.

This is another one of nineteen allotments ordered made by the common council of Santa Fe to settlers at

Galisteo. The tract was 100 varas wide and 1,000 varas long. It was allotted under precisely the same circumstances as the tract described in archive 616.

No. 4. **1822.**

Archive 893. April 8. The Rafael Sena grant. By the common council of Santa Fe.

This is another one of nineteen allotments ordered made by the common council of Santa Fe to settlers at Galisto. The tract was 100 varas wide and 1,050 varas long. It was allotted under precisely the same circumstances as the tracts described in archives 616 and 892. In this muniment the date of Acting Governor Mayneq's incumbency is referred to as being six years prior to the date of the instrument of allotment.

No. 5. **1822.**

Archive 894. April 8. The Felipe Sandoval grant. By the common council of Santa Fe.

This is another of the same kind of allotments as those described in archives 616, 892, and 893, being made at the same place, by the same officer, and under the same alleged authority.

No. 6. **1822.**

May 2. The town of Anton Chico grant. By Governor Facundo Melgares. Reported No., 29. Confirmed by Congress June 21, 1860.

The petition in this case was made by Salvador Tapia, for himself and seventeen others, with a view to obtain-

ing sufficient land to enable them to support their families, and was apparently directed to the common council of San Miguel del Bado.

Upon this petition was indorsed a statement to the effect that although the need and right of the petitioners were recognized, it was not possible to accede to their request, for the reason that the land asked for was without the boundaries of the grant of El Vado; and it was referred to the governor in order that with his consent it might be done as they requested. This statement is signed by Manuel Baca, who appears to have been the constitutional alcalde and president of the common council of San Miguel del Bado.

Following this is an indorsement, signed by Governor Melgares, that it is proper that the petition be made on common paper, and that the common council draw up the expediente and send it to the provincial board (junta de provincia) in order that it be approved, etc.

Following this is an unsigned statement similar in purport to the preceding statement signed by Baca, and apparently being a reference of the matter by the common council of El Vado to the provincial deputation, which was undoubtedly the same body referred to by Governor Melgares as the junta de provincia.

The documents heretofore referred to are originals; and then comes a copy of what purports to be an order of Governor Melgares to the alcalde, Manuel Baca, to place the parties (here referred to as Manuel Rivera and thirty-six men) in possession of the grant they ask for, followed by a copy of what purports to be an act of possession, signed by Manuel Baca as president, and by Jose Miguel Baca as secretary—evidently of the common council of San Miguel del Vado. This act of possession mentions the outboundaries of the tract, but does not show that any allotments were made therein to the thirty-six petitioners; but it does recite certain conditions attach-

ing to the grant, among others these, that the place referred to was to be common not only to the petitioners, but also to all citizens who in the future might congregate there, and that the pastures and watering places were to be common without prejudice to a third party. The originals and the copy above referred to are all dated in 1822.

Then comes an original document dated March 8, 1834, by Juan Martin, an acting constitutional alcalde, who states that by verbal order of the constitutional alcalde, Juan Jose Cabeza de Baca, he placed in possession of lands at Anton Chico the persons named in the document, the lands having been donated some seven or eight years before and entirely abandoned because of Indian attacks. The parties placed in possession are fourteen in number, and their allotments vary in width from 50 to 200 varas, the most of them being 100 varas.

No. 7. **1822.**

1822 or 1823. The Bracito or Hugh Stevenson grant. By Jose Ordas, lieutenant-governor at El Paso. Confirmed by Congress June 21, 1860. Reported No. 6.

The petitioner for this grant began his proceedings as early as 1805 by a petition to Joaquin Real del Alencaster, governor of the province of New Mexico, asking for a tract of land on the Rio Grande, in the southern part of New Mexico, and describing the same by natural objects. He proposed to construct a house and corrals and to cultivate the soil, maintaining a number of armed men for protection against the Indians until the working of mines in the vicinity should attract enough persons to form a permanent settlement. The governor stated that the petition would be considered whenever settlement

should be established in the vicinity of the land asked for. In 1816 the petitioners applied to the commandant-general of the province of Durango for a grant of the lands, stating that he had been in possession of them since 1805, and that a number of persons from El Paso had agreed to accompany him in the formation of a settlement. After two references of this petition to the lieutenant-governor at El Paso, the first of which elicited a favorable report and the second a report somewhat less so, the petitioner in 1817 requested the lieutenant-governor to take no further action on the matter until asked so to do by him.

In 1820 the petitioner again applied to the governor of New Mexico, asking that the grant be made to him alone, as he had been occupying it for eleven years, and the people who had agreed to go with him to establish a settlement had given up the idea on account of the restrictions placed upon the grant. About six months later Facundo Melgares, then governor of New Mexico, declined to make the grant on the ground that he was believed to have even less authority to do so than had belonged to Alencaster, who had refused; and he directed the party to apply to the proper authority, but without stating to whom it was proper to apply.

In 1821 the petitioner again applied to the commandant-general of Durango for a grant of the tract, reciting all the steps taken by himself and the authorities from 1805 up to that date. A recommendation by a comptroller of Durango that the grant be made followed this petition, and testimony of witnesses was taken in April, 1822, by the justice at El Paso, tending to show that the land had never been segregated from the public domain. Other unimportant proceedings were had immediately afterwards, and in 1822 or 1823 the grant was made by Jose Ordas, who was lieutenant-governor at El Paso. No original granting decree is known to be in existence,

but the fact of the making of the grant was proved by testimony taken in 1849, as was also the further fact that a portion of the archives at El Paso, where the originals of all grants were required to be deposited, had been destroyed by United States troops in 1846 during the war with Mexico. It was alleged that this act prevented the claimants from producing all the documents necessary to the establishment of their claim, and upon the favorable report of the surveyor-general of New Mexico, the grant was confirmed by Congress.

While the earlier proceedings indicate an intention to establish a settlement, it appears when the grant was actually made that there was but one grantee, Juan Antonio Garcia, by whose heirs a two-thirds interest in the grant was sold in 1851 to Hugh Stevenson, by whose name the grant is frequently referred to in New Mexico.

No. 8. **1823.**

April 4. The John Heath or Juan Gid grant. By the common council of El Paso. Suit No. 59 in the Court of Private Land Claims. Rejected by Court of Private Land Claims June 26, 1895. Appealed to Supreme Court of the United States, and judgment affirmed. (*Ossun* v. *United States*, 169 U. S., 165.)

This was a grant at the place called El Bracito of a tract of land containing 25 square leagues, made by the ayuntamiento, or common council, of El Paso to Dr. John Heath, whose name appears written in the Spanish documents Juan Gid. The grantee proposed to bring for the settlement of the land thirty families, among which were to be persons of many professions and trades; to establish a hospital and drug store; to build a warehouse supplied with all kinds of merchandise for wholesale;

and to do many other things which he enumerated in his petition.

The proceedings were had under the colonization law of January 4, 1823, but the conditions or requirements attached to the grant were never performed. The concession was revoked by the provincial deputation.

No. 9. **1823.**

July 19. The Casa Colorado grant. By the common council of Tome. Confirmed by Congress December 22, 1858. Reported No. 5.

This grant was made by the ayuntamiento or common council of Tome on the petition of Jose Maria Perea for himself and forty other persons whose names appear written on the margin of the petition, asking that they be given the full possession of certain lands which they had been occupying at a place called Casa Colorada, and setting forth the natural boundaries which they wished to have designated to them. The common council passed upon the petition and resolved that a committee of its members should designate to them the places they asked for as boundaries, and that the proceedings should be forwarded to the provincial deputation for its customary approval. This was done and the action of the council was approved by the deputation. There is no instrument showing in what manner, if any, the lands were allotted among the settlers, but the settlement which was thus formally established is still in existence. It is to be observed that in their petition the applicants refer to the fact that the provincial deputation had ordered the people who were scattered about in the hills and valleys to be gathered together in settlements, in compliance with the provisions of article 16 of the decree of June 23, 1813.

No. 10. **1823.**

December 23. The Preston Beck grant. By the acting political chief, Bartolome Baca. Reported No., 1. Confirmed by Congress June 21, 1860.

This grant was of a very large tract described by certain natural objects, and was made to one person for the purposes of establishing a range for the raising of large and small stock and horses, and also for farming as much land as the water and locality would allow. The petition was directed to the acting political chief, who forwarded it to the provincial deputation with a lengthy approval, stating that if that body saw fit it might make the grant. The deputation resolved that the grant be made, and thereupon it was made by the acting political chief. The possession was not given until 1825, and the alcalde who gave it stated that the grant was made by the territorial deputation. It is to be noted that New Mexico was a province when the grant was made, but became a territory of the Mexican Republic by the law of July 6, 1824.

No. 11. **1824.**

February 27. The Vallecito de Lobato grant. By Bartolome Baca, political chief of New Mexico. Reported No. 108. Suits 142, 204, and 236 in the Court of Private Land Claims. Rejected by Court of Private Land Claims and now on appeal in the Supreme Court of the United States. (*Peabody* v. *United States*, No. 268, October term, 1898.)

In this case the petition was directed to the constitutional alcalde of Abiquiu, by Jose Rafael Samora, for himself and twenty-five other persons. The alcalde

certified that the statements in the petition were true, that the land applied for was vacant, and the applicants were not property owners.

The document, which is alleged to evidence the authority under which the alcalde subsequently acted in giving the possession, is an unsigned rough draft of a letter to that officer, and is claimed to have been the act of Bartolme Baca, the political chief of New Mexico. It is as follows:

"In virtue of your report you may proceed to place Jose Rafael Samora, with the twenty-five persons who join him in his petition, in possession of the lands asks for, in order that he may not lose time in going to work; nor shall you act with the necessary formalities which can not be had now on account of the most excellent deputation, to which body the matter belongs, not being in session.

"I enjoin upon you that in placing them in possession you treat those unfortunate persons with charity, charging them for your work in proportion to their adverse circumstances rather than according to the tariff of fees that is in force.

"God, etc., February 27, 1824.

"To the alcalde of Abiqain."

It is claimed that the constitutional alcalde of Abiquiu, Francisco Trujillo, placed the interested parties in possession of allotments varying in size from 100 to 150 varas. In the act of possession it is stated that he did this, "in virtue of the decree of Don Bartolome Baca, present political chief of this province, given at Santa Fe on February 27, 1824, upon the petition gotten up by Jose Rafael Samora and his companions," etc.

In addition to the distribution of the alloted lands the alcalde designated the outboundaries of the tract, which included a much larger area than that which was allotted. The settlement thus formed is still in existence.

No. 13. **1824.**

Archive 387. March 28. The Francisco Garcia et al. grant. By Bartolome Baca, political chief of New Mexico.

The petitioners in this case alleged that they had been unjustly dispossessed of lands which had been donated them and of which they had been placed in possession, and prayed that they might again be placed in possession of the property.

The political chief, Bartolome Baca, stated the petition was not admissible, because of its being against the right of the settlers of El Rito, and there not being sufficient water for irrigation, but he hoped that the alcalde and the common council of Abiquiu would help the petitioners at the Riano canyons or somewhere else.

The alcalde thereupon placed some seventeen persons in possession of allotments of agricultural land in the "surplusage of the possession of the Riano canyons." This distribution was made on the 1st of April, 1824. On the 21st of December of the same year Baca approved the distribution of the lands made by the alcalde of Abiquiu.

No. 13. **1824.**

Archive 670. April 12. The José Ignacio Ortiz grant. By Bartolome Baca, political chief of New Mexico.

The petition in this case was made by José Ignacio Ortiz, second alcalde of the city of Santa Fe, to Don Bartolome Baca, political chief of New Mexico, asking that he be given a piece of land which lay back of his residence in said city. The first alcalde was ordered to report on the matter, but stated that it was his opinion that the common council was the body that should make such report. The political chief then referred the petition to

that body, which reported favorably, upon which the political chief ordered the first alcalde to place the petitioner in possession of the land and to draw up at the end of the order the customary document, which was done. There was no indication of intention to cultivate the land, and the grant appears to have been without any conditions whatever.

No. 14. **1824.**

Archive 1090. April 12. The José Ramon Alarid et al. grant. By the provincial deputation.

The only document in this case is a copy made in 1855 of what purports to be a petition made by José Ramon Alarid for himself and fourteen other persons, asking for some pieces of land which, judging from the description, are probably on the Pecos River some miles below the town of San Miguel del Vado, which petition was directed to the constitutional alcalde, Diego Padilla; also a reference of the petition by Padilla to the political chief; also a reference by the latter official to the deputation in these words:

"SANTA FE, *March 26, 1824.*

"Let it be transmitted to the most excellent deputation in order that in view thereof it may decide, as belongs to its powers.

"BACA."

Also a statement by the officers of the deputation showing that on April 12, 1824, the deputation had resolved that the land be granted, and that the applicants apply to the alcalde to place them in possession. This paper shows that the lands were intended for farming purposes, but as there is no act of possession, it is impossible to state what, if any, allotments were made.

No. 15. **1824.**

November 19. The town of Tecolote grant. By the Territorial deputation. Confirmed by Congress December 22, 1858. Reported No., 7.

This grant was made by the Territorial deputation, to which body the petition had been referred by the alcalde, to whom it had been addressed, and after a report made by the political chief, who had been requested to report by the deputation. The applicants were six in number, and the grant was described in the petition by natural boundaries. It was contemplated that the lands should be alloted, but the alcalde, who placed the applicants in possession, says nothing about having made any distribution. This settlement was the beginning of the present town of Tecolote.

No. 16. **1824.**

November 19. The Agua Negra grant. By the Territorial deputation. Confirmed by Congress June 21, 1860. Reported No., 12.

The petition in this case was directed to the Territorial deputation by the wife of Antonio Sandoval, he being absent from New Mexico, asking that he be given a square league of land at a place called Agua Negra for the pasturing of the stock which he had had there for years. The deputation referred the petition to the political chief, who reported favorably thereon, whereupon the deputation made the grant. The commissioner who was authorized to give the possession gave it to the extent of four times the area granted by the deputation.

Sandoval was the only grantee, and no claim was made that he intended to cultivate the land or establish any settlement thereon.

No. 17. **1824.**

November 19. The Pablo Montoya grant. By the Territorial deputation. Confirmed by Congress March 3, 1869. Reported No., 41.

This was a grant made to one person of an immense tract of land for the raising of large and small stock and horses. The petition was directed to the deputation, which body referred it to the political chief, who reported thereon favorably, whereupon the deputation made the grant. There was no act of possession, and the papers appear to have contemplated that there should be none, as the claimant was to take possession of the land by virtue of a copy of the proceedings, which was furnished him by order of the deputation. There is no indication of any intention to use the land for any other purpose than stock raising. The deputation said in making the grant: "It was resolved that the same be granted to him under the conditions heretofore imposed upon other persons receiving grants upon the frontiers of the Indian tribes," but it is not stated what those conditions were.

No. 18. **1825.**

Archive No. 137. February 16. The Juan Antonio Cabeza de Baca grant. By the Territorial deputation.

This grant, although in fact made by the Territorial deputation of New Mexico, was rather in the nature of a regranting of a tract of large area, which in 1821 had been granted to the same petitioner, Luis Maria Cabeza de Baca, by the provincial deputation of Durango, to which body, according to a statement made by Bartolome Baca, the political chief of New Mexico, in a letter to the alcalde of El Vado in 1823, the province of New

Mexico was subordinate in 1821. It appears that the claimant Baca did not have any "document of possession" at the time he made his petition to the deputation of New Mexico in 1825, and evidently had some reason for fearing that on that account the land he claimed under the grant of the deputation of Durango might be granted to another party. His petition in 1821 shows his declared intention of cultivating the land as well as using it for the pasturing of his stock. The deputation of New Mexico in making the grant directed that the documents should be presented to the alcalde at El Vado in order that he place the petitioner in possession. It is not known that the possession was ever given, but there are documents in the archives of the surveyor-general's office at Santa Fe which show that the applicant Baca continued his efforts to have such possession given, at least until January, 1826.

The lands described in this grant were confirmed to the town of Las Vegas in 1860, under a grant made in 1835, and the heirs of Baca were given the right to select other lands of equal area in lieu thereof.

No. 19. **1825.**

March 3. The Esteros grant. By the Territorial deputation. Confirmed by Congress June 21, 1860. Reported No. 16.

This grant was made by the deputation to which body the petition was addressed, after the same had been submitted to and reported upon by the political chief. There was but one grantee, and he stated that he had been in possession of the land petitioned for for the term of nine years. It is doubtful if it was intended to grant more than 1 square league, but the area surveyed and patented under the grant is over 4 leagues.

No. 20. **1825.**

March 3. The Antonio Chavez or Alamillo grant. By the Territorial deputation. Reported No., 79. Suit No. 37 in Court of Private Land Claims. Rejected by Court of Private Land Claims December 4, 1893, and appealed to the Supreme Court of the United States, where the judgment was affirmed. (*Hays* v. *United States*, 170 U. S., 637.)

This was a grant of a considerable tract of land described by natural boundaries made to one person by the Territorial deputation, to which body the petition was directed. The deputation referred the matter to the political chief in order that he should report as to whether the land asked for belonged to the settlements of Socorro and Sevilleta, and in case it did so belong, whether it might be granted without injury to a third party. The report of the political chief was favorable, it being his opinion that not the slightest damage would result to either of the settlements named, but, on the contrary, the settlement under the proposed grant would furnish employment to the poor people of those places. The deputation thereupon made the grant and directed the grantee to apply to the alcalde of Socorro to place him in possession. This he did, and was given the possession by that officer, who designated the natural objects which were to serve as boundaries. There is no doubt that a portion of the land granted had up to that time been claimed as belonging to the settlements of Socorro and Sevilleta, that is to say, the lands were within the exterior boundaries of those tracts as the same were claimed by their respective inhabitants, but in making this grant there was no intimation that it was intended to be an allotment under either of the prior claims; on the contrary, portions of the lands claimed by each were taken from them and incorporated into the new grant to Chavez.

No. 21. **1825.**

Archive 60. March 3. The Juan Antonio Armijo et al. grant. By Diego Padilla, first alcalde of San Miguel del Bado.

This was a case in which half a dozen persons who had been placed in possession of lands at the pueblo of Pecos by the alcalde of El Vado, who purported to have proceeded under an order of the political chief, Bartolome Baca, which had been presented to him by the principal petitioner, asked that the Territorial deputation should approve the possession thus given. The deputation stated that, notwithstanding it was not the place of said alcalde to adjudicate lands, in virtue of the manifest poverty of the persons making the petition, it had decided to approve the deeds (hijuelas) of the allotments made by that officer. Five of these deeds are attached to the other papers, and a note states that a certified copy of the whole expediente had been furnished the parties.

No. 22. **1825.**

Archive 135. March 3. The Rafael Benavides et al. grant. By the Territorial deputation.

In this case the petition was presented by five persons, asking for lands for cultivation, which lands were described by natural boundaries and said to have been left uncultivated for many years by the Indians of Pecos, to whom they had belonged. The grant was made, with the boundaries recited in the petition, the only condition imposed being that the grantees were to present to the committee which had been appointed by the deputation to distribute the lands at Pecos, the certified copy of the expediente, with a view to being placed in possession. There is nothing to show whether the possession was ever given.

No. 23. **1825.**

Archive 807. March 3. The Miguel Ribera et al. grant. By the Territorial deputation.

The petition in this case was presented to the deputation by Miguel Ribera for himself and five other persons, claiming that he and his companions had been ejected from lands which had formerly been given them by order of the political chief, and that said lands had been sold by the Indians of the pueblo of Pecos. The petitioners asked that they be given certain lands adjoining those sold by the Indians, and which they describe by natural boundaries.

The deputation made the grant, with the boundaries asked for, and stated that if the Indians had made sales of any lands within those boundaries that the same should be null and void.

No. 24. **1825.**

August 20. The Talaya grant. By Severino Martinez, alcalde at Taos. File No., 86.

This petition was directed to the constitutional alcalde and the common council of Taos, asking that the two persons whose names are signed thereto, and also those who appear in an "accompanying list" be placed in possession of lands suitable for tillage, at a place called La Talaya, which apparently is somewhere in the vicinity of the settlement of Arroyo Hondo, north of the town of Taos. The "accompanying list" is not with the papers in the case.

The possession was given by Severino Martinez, the alcalde at Taos, by order of the common council, to thirty-six persons, to eight of whom were allotted 100

varas each, and to the others 50 varas each; but the grantees' names are not given.

The alcalde says that no application was made to the deputation to approve this proceeding, for the reason that that body had previously granted the land to other persons; but the latter had failed to cultivate it. The alcalde further says that the grant was made without prejudice to the first settlers of Arroyo Hondo, who were dependent on the waters of that stream; that the cultivated lands were to be fenced in common, and that the roads and watering places were to have sufficient room for the stock.

No. 25. **1826.**

March 16. The Maragua grant. By the Territorial deputation. Reported No., 121. Suit No. 276 in the Court of Private Land Claims. Rejected by the Court of Private Land Claims October 4, 1898.

The petition in this case was made by three persons and directed to the deputation, asking for a piece of tillable land, which they described by natural boundaries and estimated to be about 1,000 varas wide and 4,000 varas long.

The deputation referred the matter for report to the common council of Santa Fe, which body referred it to the attorney of the municipality. This official made a report suggesting the conditions that should be imposed upon the applicants, whereupon the common council reported favorably upon the petition, and the deputation made the grant. The alcalde of Santa Fe placed each of the parties in possession of a strip of land 500 varas wide, setting forth the natural boundaries of each piece. There is nothing in the papers to indicate that these allotments were made under some prior grant, but rather

that they were made within a territory over which the common council of Santa Fe exercised a provisional control.

No. 26. **1826.**

March 16. Grant to the residents of Las Trampas. By the Territorial deputation. The evidence of the making of this grant is found in the surveyor-general's office at Santa Fe in the journal of the proceedings of the Territorial deputation, folio 106.

Nothing is known of this claim except that a petition of various residents of Las Trampas, asking for lands, was laid before the deputation and that body thereupon made the grant as asked for; it being resolved that the proper justice should place the parties in possession of the lands, but it being provided, also, that no one should be compelled to go to settle at the place granted.

No. 27. **1826.**

March 17. Grant to Simon Saenz. By the Territorial deputation. The evidence of the making of this grant is found in the surveyor-general's office at Santa Fe, in the journal of the proceedings of the Territorial deputation, folio 106.

The entry in the journal in regard to this grant is as follows: "There was taken up for action a petition by the citizen Simon Saenz, a resident of Taos, in regard to possession of lands at the Arroyo Hondo. It was discussed and then resolved that this petition be transmitted to the alcalde at Taos, in order that he give to

this party the possession he asks for; notifying him that he must be given possession gratuitously, in accordance with article 15 of the decree of January 4, 1813, enacted by the Cortes of Spain and in force at this date."

No. 28. **1826.**

Grant to Cristobal Jaramillo. April 12. By the Territorial deputation. The evidence of the making of this grant is found in the surveyor-general's office at Sante Fe in the journal of the proceedings of the Territorial deputation, folio 111.

The petitioner asked to be placed in possession of lands either at San Antonito or at Nuañes, and the common council of Albuquerque had reported on the matter. The deputation decided that the constitutional alcalde of Albuquerque should place the petitioner in possession of one of the two tracts, but without prejudice to third parties.

No. 29. **1826.**

July 28. The Orejas del Llano de los Aguajes grant. By Antonio Narbona, political chief of New Mexico. Reported No. 117. Suit No. 169 in the Court of Private Land Claims. Rejected by the Court of Private Land Claims December 1, 1896.

The muniments on which this claim is based are forgeries, but that question was not passed on by the Court of Private Land Claims, the rejection being on legal grounds.

It has been claimed that the papers in this case show that the petitioner presented his application to the alcalde

of the jurisdiction of Abiquiu, asking for a tract of land described by natural boundaries; that the alcalde forwarded the petition to the political chief for his action; that the latter ordered the alcalde of Abiquiu to place the petitioner in possession; that the alcalde complied with the order, designating the natural objects that were to constitute the boundaries of the tract; that subsequently to the act of possession the political chief, who had ordered the giving of possession, reconsidered and regranted the land.

No. 30. **1827.**

March 17. Manuel Rivera grant. By Territorial deputation. Lands situate on Arroyo Hondo near Santa Fe.

Grant made for farming purposes to one person in accordance with the report of the common council of Santa Fe. Extent of land is not stated, but the deputation says the party was to be placed in possession of as much land as he could reasonably be expected to cultivate, and completely subject to the conditions dictated. It does not appear what these conditions were. The only evidence of this grant appears in the journal of the Territorial deputation, at folio 144.

No. 31. **1827.**

April 20. Francisco Perez Serrano grant. By Territorial deputation. Lands situate on Arroyo Hondo, near Santa Fe.

Extent not shown, but the grant was made evidently in the face of an unfavorable report by the common council of Santa Fe, but was to be without prejudice to any

person having a legal right and who might be able to prove that, contrary to the views of the deputation, the land had not been abandoned for more than twenty years prior to the date of the grant. It was probably a small grant for farming purposes similar to the one made to Rivera. See journal of Territorial deputation, folio 148.

No. 32. **1827.**

August 9. E. W. Eaton grant. By Territorial deputation. Reported No., 19. Confirmed by Congress June 21, 1860.

This grant was made to twenty-five or more persons to whom lands were allotted with the understanding that they were to have "the same right with the rest of the public to pasture their animals in the vicinity thereof." The allotments were either at or near the present town of Galisteo, where other allotments had been made as early as 1816, and which latter have been recently confirmed by the Court of Private Land Claims in suit No. 54, Town of Galisteo grant, so called.

No. 33. **1828.**

August 13. Isleta grant. By Juan Antonio Arce, governor of the State of Chihuahua. Suit No. 33 in Court of Private Land Claims. Rejected by Court of Private Land Claims, September 27, 1894.

This was a grant to the pueblo of San Antonio de Isleta, now a town in the State of Texas, for a very large tract of land, a portion of which lies in New Mexico. The town of Isleta obtained from the State of

Texas, in 1854, a confirmation of a claim for more than 8,000 acres, upon which the town is situate, based upon a grant made by the Spanish Government in 1751; and the grant of 1828 was to be used in common by the inhabitants of the town for purposes of pasturage.

No. 34. **1828.**

December 11. Canada de las Mestenas grant. By Vicente Trujillo, constitutional alcalde of the pueblo of Taos. File No. 82 in the surveyor-general's office, and suit No. 163 in Court of Private Land Claims. Rejected by Court of Private Land Claims, appealed to the Supreme Court, and appeal there dismissed.

This grant was made to eleven families, to each of which was allotted a strip of land from 100 to 232 varas in width. The alcalde says that in making the grant he was governed by the decree of 1813, and that he signed the muniment by virtue of his office and the authority conferred upon him by law. There is nothing to show that he gave the possession by virtue of any order from superior authority; but the muniment indicates that the object of the grant was to give the allotments to persons who would cultivate them, and that any allottee failing to do this was to be ejected from the property.

No. 35. **1829.**

November 28. Town of Manzano grant. By Territorial deputation. Reported No., 23. Confirmed by Congress June 21, 1860.

This grant was made to about one hundred persons who had settled on the lands asked for prior to the presentation of their petition to the common council of Tome,

upon the report of which body the territorial deputation directed that the parties be placed in possession of the lands applied for, giving to each the tillable land he might be able to cultivate, and making provision for allotting lands to other persons who subsequently might join the settlement. The town of Manzano is still in existence.

(House Ex. Doc. 14, Thirty-sixth Congress, first session, p. 65.)

No. 36. **1830.**

May 18. La Gotera grant. By Territorial deputation. Reported No., 56, and suit No. 83 in Court of Private Land Claims. Rejected by Court of Private Land Claims.

The petition for this grant was directed to the deputation, which body referred it to the common council of Santa Fe for report, upon the rendition of which report the deputation made the grant to the seven petitioners, to five of whom were allotted strips of land 500 varas in width, and to the remaining two strips of 100 varas each, the land allotted being the only land granted, and the object of the grant being the promotion of the agricultural interests of the country.

(Mis. Doc. 181, Forty-second Congress, second session, p. 50.)

No. 37. **1831.**

November 12. Nerio Antonio Montoya grant. By Territorial deputation. Reported No., 51, and suit No. 20 in the Court of Private Land Claims. Rejected by Court of Private Land Claims March 25, 1896, and now pending on appeal in the Supreme Court.

This grant is involved in the case at bar.

No. 38. **1832.**

March 14. Arkansas or Beales Colony grant. By State of Coahuila and Texas. File No., 100. See *Interstate Land Co.* v. *Maxwell Land Grant Co.*, 139 U. S., 569.

This was an empresario grant or a contract between the State of Coahiula and Texas and two contractors who, under the provisions of the law of colonization of said State, dated March 24, 1825, engaged to settle within certain described limits a colony of two hundred families, in consideracion of which they were to receive certain lands. The colony was never established.

No. 39. **1832.**

July 20. Tierra Amarilla grant. By Territorial deputation. Reported No., 3. Confirmed by Congress June 21, 1860.

This grant was made to a number of persons after their petition therefor had been referred by the political chief of the Territory to the Territorial deputation, and by that body to the common council of Abiquiu, which latter body reported favorably thereon, estimating that the land applied for was capable of supporting five hundred families. The deputation in making the grant directed the alcalde of Abiquiu to deliver to each one of those who might join the petitioners a certain number of varas of land, on which, in his opinion, they could sow 4 or 5 fanegas of wheat; and also added that the pastures, watering places, and roads were to be free, according to the "custom prevailing in all settlements."

No. 40. **1832.**

July 28. Rio de Picuris grant. By Territorial deputation. File No., 71; suit No., 65 in the Court of Private Land Claims. Rejected by Court of Private Land Claims September 15, 1894.

This grant was made upon the favorable report of the common council of Taos, and under it an allotment was made to 42 families of strips of land varying in width from 50 to 150 varas, the pastures, watering places, and roads being free, "as has been and is customary in every settlement that is made." The settlement so formed is still in existence.

No. 41. **1833.**

Some time in this year, not known exactly. Town of Cubero grant. By Francisco Sarracino, political chief of New Mexico. Suit No. 1 in Court of Private Land Claims. Confirmed by Court of Private Land Claims August 29, 1892; appealed to the Supreme Court and judgment affirmed. (*United States* v. *Chavez*, 159 U. S., 452.)

This was a grant to sixty-two persons, who by virtue thereof founded the present town of Cubero, and who, according to the allegations of their petition, distributed the lands among themselves "in accordance with the laws and customs of the Mexican Government." The Court of Private Land Claims in its decree called the grant a "colony grant."

No. 42. **1833.**

December 18. Ortiz mine grant. By Francisco Baca y Ortiz, first alcalde of Santa Fe. Reported No. 43. Confirmed by Congress March 1, 1861.

This was a grant of three mining claims to two persons, with a privilege to the use of the waters and pasturage over an area of 16 square leagues. The grant was made under the old Spanish mining ordinances of 1783.

No. 43. **1834.**

March 7. Town of Tajique grant. By Francisco Sarracino, political chief of New Mexico. Reported No. 21. Confirmed by Congress June 21, 1860.

This was a grant to twenty persons of a tract of land at a place called Tajique. The area included within the natural objects named by the alcalde as the boundaries of the grant was over 7,000 acres. Within these boundaries there was allotted to each grantee a strip of agricultural land 112 varas wide. The town of Tajique which was thus formed is still in existence.

It is to be noted that Sarracino made this grant provisionally, in order not to delay the planting of crops, stating that it was to be understood that when the deputation should meet it would confirm the possession which the alcalde of Valencia was ordered to give.

(House Ex. Doc. 14, Thirty-sixth Congress, first session, 46.)

No. 44. **1835.**

March 25. Town of Las Vegas grant. By Territorial deputation. Reported No. 20. Confirmed by Congress June 21, 1860.

This grant was made originally to twenty-nine persons for the purpose of establishing a settlement at a place then known as Las Vegas Grandes, on the Gallinas River. The area within the exterior boundaries was nearly 500,000 acres, but the original grantees were located upon the river, where allotments of tillable lands were made to them. The grant was made not only to the petitioners and the residents of the town of El Vado, but also to any one who might need lands to cultivate, and allotments were made at different times subsequent to the first allotment, and to many persons. The unallotted lands were used in common for the pasturage of stock and for obtaining timber and firewood. The settlement established under this grant formed the nucleus of the present modern town of Las Vegas.

(House Ex. Doc. 14, Thirty-sixth Congress, first session, 16.)

No. 45. **1835.**

September 28. Town of Mora grant. By Albino Perez, political chief of New Mexico. Reported No. 32. Confirmed by Congress June 22, 1860.

More than seventy persons were placed in possession of allotments within the natural objects named as outboundaries by the alcalde of San Jose de Las Trampas on October 20 and 21, 1835, and that officer states that this was done in compliance with a decree of the politi-

cal chief of the Territory, Don Albino Perez, dated September 28, 1835. Upon a copy of the act of possession the surveyor-general based his approval of the grant and it was thereupon confirmed by Congress; but there is good reason to believe that many other allotments were subsequently made within the outboundaries recited in the act of possession or distribution of October 20 and 21, 1835. The town of Mora and a number of villages are situate on this grant as confirmed and patented. The unallotted lands were enjoyed in common, as in the case of other like grants.

(House Ex. Doc. 14, Thirty-sixth Congress, first session, 180.)

No. 46. **1835.**

Archive 268. October 22. Jose Silvestre Estrada grant. By Manual Antonio Sanchez, alcalde of Las Trampas.

This archive is dated on October 7, 1844, and is a revalidation on stamped paper of a document dated October 22, 1835, which was on paper not stamped, and which evidently was the muniment presented to Estrada as an evidence of his title to an allotment of 1,150 varas of land within the outboundaries of the Mora grant; but this particular archive was not before the surveyor-general at the time he passed upon that grant. The alcalde, Sanchez, who executed the original paper to Estrada, is the same officer who made the distribution to the seventy-odd persons on October 20 and 21, 1835, in compliance with Perez's decree of September 28, 1835, and in this case also he refers to the same as authority for his action.

No. 47. **1836.**

February 25. Petaca grant. By Albino Perez, political chief of New Mexico. Reported No. 105. Suits Nos. 99, 153, and 233 in the Court of Private Land Claims. Confirmed by Court of Private Land Claims September 5, 1896. Now pending on appeal in the Supreme Court of the United States (*United States* v. *Pena*, No. 293, October term, 1898).

This grant was made to a small number of persons, only three being mentioned by name in the petition, but more than thirty were placed in possession of strips of land of 150 varas in width, with a common right in the woods, pastures, and waters. A distribution of lands was made within the outboundaries designated long subsequent to the date of the distribution of 1836, and when the Court of Private Land Claims confirmed the grant it confirmed it to persons who were named in a list of 1848, some of whom had been allottees under the proceedings of 1836.

The grant was made by Perez after the petition (which had been directed to the common council of Ojo Caliente) had been acted upon by that body, which, judging from its report, evidently expected that the deputation would act in the premises.

(Senate. Ex. Doc. No. 31, Forty-fourth Congress, first session, p. 3.)

No. 48. **1836.**

June 23. Canon del Rio Colorad grant. By the common council of Taos. Reported No. 93. Suit No. 166 in the Court of Private Land Claims. Rejected by Court of Private Land Claims November 30, 1896. Appealed to the Supreme Court and appeal there dismissed.

This grant was made by the common council of Taos

to three persons who had asked for it as a tract upon which they wanted to keep animals. There is nothing in the papers to show that there was any intention on the part of the applicants to cultivate any portion of it, or that the land granted was considered as an allotment under some grant previously made, although the latter theory was attempted to be established by claimants at the time of the trial in the Court of Private Land Claims, but in this they entirely failed.

No. 49. **1837.**

Archive 631. March 7. The Miguel Mascarenas grant. By Juan Nepomuceno Trujillo, alcalde of Las Trampas.

The muniment is a revalidation on stamped paper, dated October 8, 1844, of a document on paper not stamped, dated March 7, 1837, which latter was the evidence of title of Miguel Mascarenas to 200 varas of land allotted to him within the outboundaries of the Mora grant, and evidently under the general authority of the decree issued by the political chief, Albino Perez, on September 28, 1835.

No. 50. **1837.**

March 9. The Guadalupita grant. By Juan Nepomuceno Trujillo, alcalde of Las Trampas. Reported No. 152. Suit No. 131 in the Court of Private Land Claims. Rejected by Court of Private Land Claims November 24, 1896.

The petition for this grant was made by three persons and directed to the alcalde of Las Trampas and to the

common council. The petition indicates that it was made not only in the interest of three parties who signed it but also on behalf of other persons whose names appeared on a list which accompanied it, but which is not found with the papers now on file in the surveyor-general's office. The alcalde states in what has been called the *grant* that as the land applied for was in his jurisdiction, he made it known to the principal men at the valley of Santa Gertrudis de lo de Mora, and that as no injury would result to any third party they assented to the petition. He then ordered the *colonists*, as he calls the petitioners, to appear by the 7th of the next April, presumably for the purpose of being placed in possession. There is no documentary evidence of this having been done, although it was claimed by plaintiffs in their pleadings before the Court of Private Land Claims that possession was actually given. A very large part, if not all, of this grant is within the outboundaries of the Mora grant, and it was doubtless intended to be a series of allotments under that grant, although it is not positively known that such allotments were actually made.

No. 51. **1837.**

Archive 1244. March 13. Unsigned draft of a grant to Antonio Armijo and seventy families of lands at the junction of the Sapello, Mora, and Coyote rivers.

In exercise of the power which is granted me by article 1 of the regulations issued on the 21st of November, 1828, under the law of the 18th of August, 1824, and in view of compliance with the requirements provided in said regulations in the various articles thereof, and the land known under the name of The Junta de los Rios, Sapello, Mora, and Coyote being comprehended by

them, it being thus to the interest of the best service of the Mexican Nation, and to the particular service of this Territory, according to the petition of citizen Antonio Armijo, who, for himself and in union with seventy families that are set out in the accompanying list of names, desires to settle upon and cultivate that land, after examining the report made by the common council of El Bado, under date of November 6, of the preceding year of 1836, I have seen fit to grant said land to said Armijo and associates, in the name of the supreme powers of the nation, as there is no opposition or impediment according to the sixteen articles included in the law of the 18th of August, 1824, already cited, and with commendable preference to a Mexican citizen, and the more so as no foreigner is found in the petition, saving the formalities prescribed in article 5 of said regulations, inasmuch as the most excellent deputation is in recess, and reserving the provisions of article 6 of said regulations, I issue this title under article 8, in absolute conformity with the laws on the matter, and designate five months, counted from the date of this document, as the specific and indispensable term for the settlement and cultivation of said land, so that, if in said time, any considerable part or all of them shall not have complied with the settlement or occupation, it shall fall under the penalty of forfeiture and the right to a new denouncement on the part of another, under the provisions of law 11, book 4, title 12, article 4 of the Royal Instructions of the 15th of October, 1754, and the provisions of article 11 of said regulations, so that in its case the grant shall be void, the Government reserving the right to make use of the authority to revalidate it in the case stated, granting to each head of family 200 varas of land, for farming, in the narrow part of the land and in the widest portion 100 varas, to which end the constitutional alcalde of Bado, in rigorous compliance with the laws, will be

present at the allotment of the land to issue the main deed of donation, the particular deeds of the individuals, and to return to this Government the main original proceedings, with the plat of the land granted, in conformity with the provisions of article 9 of said regulations, requiring of the principal contractor, who is Citizen Antonio Armijo, the obligation provided for in article 10 of said regulations, the new settlement to be subject, in civil matters, to the jurisdiction of Bado, with the other provisions of the laws and regulations in the matter.

Given at Santa Fe, New Mexico, on the 13th day of the month of March, 1837.

(Unsigned.)

No. 52. **1837.**

October 16. The Alvarez grant. By Manuel Armijo, governor of New Mexico. Reported No., 143. Suit No. 231 in the Court of Private Land Claims. Rejected by Court of Private Land Claims October 5, 1898.

This was a grant made to one individual, who, in petition for it, stated his object to be the raising of stock, principally sheep, which he expected to improve by the introduction of Merinos; and the grant was made to him upon a condition suggested by himself, that within three years he was to carry into effect the enterprise of raising Merino sheep. Possession of a large tract within certain natural boundaries was given the applicant by an alcalde, but it is understood that the condition imposed by the governor was never fulfilled. There is no evidence in the case that the grant was an allotment under a prior grant or that its object was anything more than above indicated.

No. 53. **1838.**

March 14. The Jose Sutton grant. By Manuel Armijo, governor of New Mexico. Reported No., 45. Suit No. 143 in Court of Private Land Claims. Rejected by Court of Private Land Claims December 20, 1898.

This was a grant made to one person, for a tract of land of 16 square Spanish leagues, or more than 69,000 acres, for the purpose of constructing thereon, within three years from the date of being placed in possession, a factory of ordinary woolen fabrics and commencing the raising of Merino sheep. The grantee was to be placed in possession whenever he saw fit, but he never applied to anyone to place him in possession, and failed to fulfill any condition attached to the grant. It was an absolute grant upon the conditions described.

(House Ex. Doc. 112, Thirty-seventh Congress, second session, p. 4.)

No. 54. **1838.**

September 18 and November 25. Rancho de la Hermosa Estrella grant. By Juan Antonio Garcia and Jose Francisco Sandoval, justices of the peace. File No., 34 in surveyor-general's office.

This claim had its origin in two distinct titles dated as above. The first was a title to land which had been previously given to someone else by the alcalde, Manuel Sanchez (who made the first allotment under the Mora grant), and which had not been cultivated within the time fixed in the colonization laws. The justice of the peace, Garcia, in making this new allotment of the land, refers to the same authority under which the original allotment had been made, viz, the decree of September 28, 1835, by the political chief, Albino Perez.

The second title was for another piece of land, granted by the justice of the peace Sandoval to Bautista Llara, by virtue of a decree of the prefect of the northern district, Juan Andres Archuleta.

Both of these tracts were within the Mora grant, and evidently allotments thereunder. They finally became the property of one person, who conferred upon the ranch thus formed the name Hermosa Estraella, under which the claim was filed in the surveyor-general's office.

No. 55. **1839.**

March 22. Sanguijuela grant. By Santiago Ulibarri, constitutional alcalde of San Miguel del Vado. Alleged to have been approved by Manuel Armijo, governor of New Mexico, on May 8, 1842, and granted anew by him on October 3, 1843. Suit No. 170 in Court of Private Land Claims. Rejected by Court of Private Land Claims June 7, 1898.

This grant was made in 1839 to five persons, who in their petition therefor stated it was within the boundaries of the Las Vegas grant. The alcalde in making the grant stated that the petitioners should observe and comply with all the requirements that the law of colonization prescribed. The Court of Private Land Claims in rejecting the grant did so on the ground that the title papers presented were inadmissible as evidence. It does not appear that this grant was intended as an allotment under the grant to the town of Las Vegas, but rather it was made by the exercise of that power of control and disposition over lands assigned to a town, but undisposed of, which was frequently employed under the Mexican Government in New Mexico, where the granting of lands within the outboundaries which had been assigned to a town or community would not result in injury to the latter.

No. 56. **1839.**

August 23. San Pedro grant. By Don Antonio Sandoval, prefect of the second district of the Department of New Mexico. Reported No., 14. Confirmed by Congress June 21, 1860.

This grant was made to eight persons, although the original petition was made in the interest of a greater number and was directed to a prefect who referred it for report to the justice of the peace of Bernalillo, upon the receipt of which report the prefect ordered the justice to place the parties in possession. This was done by giving to each 300 varas of land for cultivation within certain outboundaries containing a much greater area. In 1845 Governor Armijo, in adding another league to the grant, also approved the former grant of 1839 and the possession subsequently given thereunder. The grant was evidently made with a view to the establishment of a settlement. In asking the addition of a league to the grant in 1845, the petitioners asked that it be given them in consequence of the grant, petition, and colonization laws of January 4, 1813, and August 18, 1824. It is also to be observed that the justice of the peace, Pedro Jose Perea, in executing to the settlers in 1844 a sort of revalidation of the act of possession of 1840, says that the decree of January 4, 1813, was in force in the Mexican Republic.

(House report 457, Thirty-fifth Congress, first session, p. 210.)

No. 57. **1839.**

December 18. Los Chupaderos de la Lagunita grant. By Damasio Salazar, justice of the peace at San Miguel del Vado. Suit No. 113 in Court of Private Land Claims. Rejected by Court of Private Land Claims, January 25, 1898.

This was a grant to one person of a half league of land to enable the applicant to cultivate a small tract and to pasture the few stock he had, but without an exclusive right to the watering places. There is nothing in the case to show that this was an allotment under any other grant now known, but the land in question was evidently within the territory over which the justice of the peace of San Miguel del Vado exercised jurisdiction.

No. 58. **1840.**

March 23. Juan Salas or Los Alamitos grant. By Governor Manuel Armijo. Reported No., 69. Suits 91 and 183 in Court of Private Land Claims. Confirmed by Court of Private Land Claims, and now pending on appeal in Supreme Court. (*United States* v. *Catron*, No. 199, October term, 1898.)

This grant was made for purposes of cultivation to twelve persons, to each of whom an instrument was given describing the allotment of which he became the owner; but this was not done until Governor Armijo had submitted the petition to the common council of Santa Fe, which made thereon favorable report. And it appears from the whole proceeding that while the lands granted and allotted were not within the boundaries of any grant

of which they were acknowledged to be a part, they were within the Territory over which the common council of ayuntamiento of Santa Fe exercised some sort of control. The cultivated lands were to be fenced as a protection against stock belonging to the people of the city of Santa Fe and vicinity.

(Senate Ex. Doc. 37, Forty-second Congress, third session, p. 10.)

No. 59. **1840.**

June 8, 1840, and February 24, 1846. Juan Ortiz grant. By Felipe Sena and Jose Albino Chacon, constitutional justices. File No. 5 in surveyor-general's office.

Although filed as one claim in the surveyor-general's office, this is really two claims, the first being an allotment of 300 varas at El Vadito and the second an allotment of 50 varas at Cadillal, the former being within the outboundaries of the Vadito and the latter within those of the E. W. Eaton grant, reported No. 19, confirmed by Congress.

No. 60. **1840.**

June 12. Canada de San Francisco grant. By Juan Andres Archuleta, prefect of the first district of the department of New Mexico. Reported No. 57. Suit No. 98 in Court of Private Land Claims. Rejected by Court of Private Land Claims April 24, 1894.

The papers in this case are incomplete, so that it is impossible to tell how many persons were placed in possession, but the testimony indicates that there were per-

haps eight or nine grantees, and that the tract was distributed among them in allotments of 100 and 200 varas in width. The prefect made this grant upon the favorable report of the common council of Santa Fe, to which body the petition was directed. The land in question is on the Galisteo Creek and within the territory over which the common council of Santa Fe exercised a control.

No. 61. **1840.**

June 20. Rio del Oso grant. File No. 112. Suit No. 177 in Court of Private Land Claims. By Juan Andres Archuleta, prefect of the first district. Rejected by Court of Private Land Claims May 17, 1897.

The possession was given by a justice of the peace, who states that he acted by virtue of an order of the prefect of the above date, to whom the petition had been directed by Jose Antonio Valdez, for himself and six others, whose object was to obtain for cultivation lands situate on the Oso River. The petitioner Valdez and ten companions were placed in possession of allotments varying in width from 115 to 287 varas, within certain exterior boundaries. The justice names certain conditions under which the grant was made, such as the fencing of the tillable lands, the road was not to be closed up, the watering places were to be in common, the ditch for irrigation was to be worked by all the settlers in common every year, and always with a view to increasing the area under cultivation, even if only done in the interests of one or more persons. Although the lands allotted were entirely within the boundaries of the Juan Jose Lobato grant, which has been confirmed by the Court of Private Land Claims, there is nothing to show that the allotments were made under that grant.

No. 62. **1840.**

July 31. Dona Ana Bend Colony grant. By Francisco Garcia, governor of the State of Chihuahua. Reported No. 85. Suit No. 24 in the Court of Private Land Claims. Confirmed by Court of Private Land Claims March 25, 1896. Appealed to the Supreme Court and appeal there dismissed.

This grant was made to a large number of persons for the purpose of establishing a colony, with allotments to the settlers, who had a common right in the pasture and woodlands, etc. The inhabitants of this grant now number several thousands.

No. 63. **1840.**

December 15. Rumaldo Ariveche grant. By Antonio Montoya, justice of the peace. File No. 75.

This is an allotment to one person, made under some order emanating from a source not known. The land is probably situated within the boundary lines of the existing survey of the Tejon grant, reported No. 37, which was confirmed by Congress, June 21, 1860.

No. 64. **1841.**

January 11. Maxwell grant. By Manuel Armijo, governor of the department of New Mexico. Reported No. 15. Confirmed by Congress, June 21, 1860. (House Report 457, Thirty-fifth Congress, first session, p. 237.)

This was a grant for a tract of land containing more than 1,700,000 acres, made to two persons, who proposed

to devote it to the cultivation of sugar beets and the raising of stock, and in time to erect thereon factories of cotton and woolen goods. There are indications in the papers that the departmental assembly understood that it was the intention of the grantees also to establish a colony, they having offered lands to a number of persons who were to settle there. Governor Armijo made the grant "in conformity with the laws," but he does not cite any particular law.

No. 65. **1841.**

March 3. Town of Torreon grant. By Antonio Sandoval, prefect. Reported No. 22. Confirmed by Congress, June 21, 1860.

This was a grant of a tract of land containing more than 14,000 acres, made to twenty-seven petitioners, to whom allotments in severalty were made of the tillable land, all having a common right in pastures, woodlands, water, etc. The settlement thus established is still in existence. The prefect made the grant after having referred the petition for report to the justice of the peace of the town of Tome. This grant mentions the Nerio Antonio Montoya rancho as western boundary.

No. 66. **1841.**

March 20. Town of Chilili grant. By Governor Manuel Armijo. Reported No. 11. Confirmed by Congress, December 23, 1858.

This was a grant to twenty-seven persons, of a tract of land described by natural objects, within which the petitioners, who are referred to as colonists, were to be

allotted portions of the tillable lands. The settlement made under this grant was the foundation of the present town of Chilili.

(House report 457, Thirty-fifth Congress, first session, p. 182.)

No. 67. **1842.**

January 19. San Antonio del Rio Colorado grant. By Juan Andres Archuleta, prefect of the first district of New Mexico. Reported No., 76. Suit No. 4 in the Court of Private Land Claims. Rejected by Court of Private Land Claims.

The grant in this case was made with a view to the establishment of a town and the distribution among its founders of allotments of tillable land. The allotments made to the thirty-five families who were placed in possession were nearly all 100 varas in width; but the grant was not made to them alone, but also to any persons for whom subsequently there might be room in the settlement. The area within the outboundaries was very much greater than that of the allotments, and the colonists, as they were called by the alcalde who placed them in possession, had a right in common to the watering places and pastures.

No. 68. **1842.**

Archive No., 223. February 18. The Ignacio Chaves et al. grant. By Juan Andres Archuleta, prefect of the first district of the department of New Mexico.

The lands granted in this case were allotments at Galisteo, where other allotments had been made many

years before. The number of allotees was seven, to each of whom was given a strip of land 200 varas in width, they being restricted in the use of water to the overplus that might not be needed by the settlers who had lands further down the stream. The petition in this case was directed to the common council of Santa Fe, by which body it was referred for action to the prefect.

No. 69. **1842.**

February 23. Conejos grant. By Juan Adres Archuleta, prefect of the first district of the department of New Mexico. File No., 80. Suit No. 109 in Court of Private Land Claims.

This grant is mostly in Colorado, only a small portion being in New Mexico. It has not yet been tried in the Court of Private Land Claims. The tract included within the outboundaries is very large, perhaps 2,000,000 acres. Within these boundaries allotments were made to more than eighty families, leaving another portion unallotted with a view to its subsequent distribution to other persons who might come into the settlement. It is not known to the Government whether any of the allotments are still occupied as such, but it is known that there are several settlements now in existence within the outboundaries of the grant as claimed, the largest being the town of Conejos, and that there are hundreds of persons living on the tract holding their lands under the land laws of the United States.

No. 70. **1842.**

July 2. Apache Spring grant. By Demasio Salazar, justice of the peace. Reported No. 72. Suit No. 101 in the Court of Private Land Claims. Rejected by Court of Private Land Claims November 23, 1896, and now on appeal in the Supreme Court (*May Hays* v. *United States*, No. 155, October term, 1898).

This was a grant made by a justice of the peace to enable the grantee to establish a farm from which to support his family, although the area included within the natural objects named as boundaries was large, being perhaps 30,000 acres. There is nothing to indicate that it was an allotment under some grant previously made. The following condition appears in the grant: "That if he does not provide a protection to prevent the damages which may result to him, he is under obligation to bear them, it being commons and pasture grounds of the inhabitants of this precinct."

No. 71. **1842.**

October 21. Our Lady of Guadalupe Mine grant. By Jose Pino, justice of the peace of the jurisdiction of Tome. Suits 165 and 206 in the Court of Private Land Claims. Tried in Court of Private Land Claims, February 9–15, 1898, but not yet decided.

This is a grant of three mining claims under the ordinance of 1783, made to two persons, with an additional concession of a right to use the pasture and wood lands within certain described limits, and to construct thereon a residence and reduction works, but this right is expressly stated not to be an absolute and perpetual right of property, but, in accordance with the provisions of the ordinance, a common right.

No. 72. **1842.**

October 31. Santiago Bone or James Bonney grant. By Juan Antonio Gracia, justice of the peace. File No., 206. Suit No. 62 in the Court of Private Land Claims.

The land here granted was for agricultural purposes, and was situated on the Mora River, being undoubtedly an allotment under the so-called Mora grant, the lands of which were directed by the political chief, Albino Perez, to be allotted under his order of September 28, 1835, which is referred to in the Mora grant, as well as in this and many other so-called grants which were evidently nothing more than allotments under the Mora claim.

No. 73. **1842 and 1845.**

Jose Manuel Cordoba grant. By Juan Antonio Garcia, constitutional alcalde. File No., 35.

This claim is for a number of tracts, distributed under the decree or order of September 28, 1835, by the political chief Albino Perez, all of which are allotments under the Mora grant. Reported No., 32.

No. 74. **1843.**

January 28. Geronimo Gonzales grant. By Vincente Rivera, justice of the peace. File No., 76.

This is an allotment to one person of 400 varas of land in the new settlement of Angostura, and it is highly probable that it was made under the Anton Chico grant. Reported No., 29, which was confirmed by Congress June 21, 1860.

No. 75. **1843.**

February 7. Luis Griego et al. grant. By Juan Andres Archuleta, prefect of the first district of New Mexico. Archive No. 398.

This was a distribution of allotments of tillable land of a few hundred varas each to some thirteen persons. It was ordered by the prefect upon the report of the common council of Santa Fe, to which body the petition was directed. The possession was given by Antonio Sena, first alcalde of Santa Fe. The lands were situated in the vicinity of Galisteo, at which town the petitioners were residing when they applied for the land, although they were citizens of Santa Fe. They were restricted in the use of water for irrigation to what might not be needed by Don Domingo Fernandez, who had a prior right to the waters of the stream, and their right of pasturage also was in common with outsiders, and the number of stock they might keep was restricted by the terms of the concession. The lands in question are situated within the limits of the E. W. Eaton grant, as the same is surveyed and patented, and it is almost certain that it was upon that grant that these allotments were based.

No. 76. **1843.**

December 1. Rio de Don Carlos or Gervasio Nolan grant. By Manuel Armijo, governor of the department of New Mexico. Reported No. 48. Confirmed by Congress July 1, 1870. (House Ex. Doc. 112, Fifty-seventh Congress, second session, p. 30.)

Situate in the State of Colorado. This grant was apparently made to Gervasio Nolan alone, although in his

petition he stated that it was his intention to settle thereon, cultivate it, put stock on it, and establish a colony; and in his request to the justice of the peace to be placed in possession he says, "the governor of the department having donated us," etc., which indicates that although unnamed in the proceedings, there were persons whom the petitioner considered in some way associated with him in the grant, although he alone was named. His relations to those whom he proposed to introduce into the colony may have been those of an *empresario*.

No. 77. **1843.**

December 9. The Animas or St. Vrain and Vigil grant. By Governor Manuel Armijo. Reported No. 17. Suits Nos. 44, 128, 135, 154, and 216 in the Court of Private Land Claims. Confirmed by Congress June 21, 1860, to the extent of 22 square leagues. The suits in the Court of Private Land Claims are for areas in excess of that confirmed by Congress, several of them being for more than 4,000,000 acres.

There were but two petitioners in this case, and the grant appears to have been made to them alone, although they indicated an intention of establishing a colony thereon. The form of the muniment is so similar to that of the preceding case as to suggest the probability of both documents having been composed by one person.

(House report 457, Thirty-fifth Congress, first session, p. 269.)

No. 78. **1843.**

December 30. Sangre de Cristo grant. By Governor Manuel Armijo. Reported No., 4. Confirmed by Congress June 21, 1860. (Senate Ex. Doc. 141, Forty-seventh Congress, first session, p. 13.)

This grant is in nearly all respects like the two immediately preceding, the grantees named being but two in number and reciting their intention to establish a colony.

No. 79. **1844.**

Archive 227. January 3. Luis Carbono grant. By Juan Andres Archuleta, prefect of the first district of New Mexico.

The lands referred to are on the Mora River, within the boundaries of the Mora grant, and were allotted to the grantee by a justice of the peace on the 18th day of July, 1844, which justice refers to a decree of the prefect Archuleta, dated on January 3, 1844, as his authority for making the allotment. The original document having been on common paper was revalidated on stamped paper by Tomas Ortiz, judge of first instance of the department, on October 10, 1844. This was evidently one of the many allotments made within the Mora grant.

No. 80. **1844.**

Archive 473. January 30. Antonio Lirud grant. By the prefect of the first district of New Mexico.

The circumstances connected with this case, as disclosed by the muniment, are substantially the same as those in

the case of archive No. 227; the lands were in the same neighborhood and were an allotment of a strip 100 varas wide within the Mora grant.

No. 81. **1844.**

Archive 632. January 30. Marcelino Mascarenas grant. By Juan Andres Archuleta, prefect of the the first district of New Mexico.

This is another allotment of 200 varas of land within the Mora grant, made in the same neighborhood and under similar circumstances as the allotments described in archives 227 and 473.

No. 82. **1844.**

Archive 663. January 30, 1844. Felipe Montoya grant. By Juan Andres Archuleta, prefect of the first district of New Mexico.

This is an allotment of 100 varas of land within the Mora grant, made in the same neighborhood and under the same circumstances as the allotments described in archives 227, 473, and 632.

No. 83. **1844.**

February 13, 1844. Canon del Agua grant. By Governor Mariano Martinez. Reported No., 40. Confirmed by Congress June 12, 1866.

The petitioner in this case stated that he applied for the land in question not only as a citizen, but also as an employee of the Government in actual service to whom large sums were owed, and that he applied in the name

of the donation laws of January 4, 1813, and August 18, 1824, having no property by which he could support his family. The petition was dated February 12, 1844. Four days prior Governor Martinez had given to the petitioner a certificate of good character, and upon receipt of the petition he called upon Ambrosio Armijo, the departmental treasurer, to report thereon, the petitioner Ramirez being the first auditor of that office. Armijo made a favorable report, whereupon the governor laid the matter before the departmental assembly which body directed the governor to make the grant, which he immediately did on February 13, 1844. Two day later the petitioner was placed in possesion of the property by Santiago Flores, first alcalde of the common council of Santa Fe.

(House Ex. Doc. 28, Thirty-sixth Congress, second session, p. 28.)

No. 84. **1844.**

Archive 916. October 5. Diego Sandoval grant. By Tomas Ortiz, judge of first instance.

This is a title to an allotment of 100 varas of land within the Mora grant, issued in lieu of a document previously given the allottee as evidence of title, but which had been declared null and void, probably on account of its not being on stamped paper.

No. 85. **1844.**

Archive 917. October 5. Agapito Sandoval grant. By Tomas Ortiz, judge of first instance.

This is a title to an allotment of 200 varas of land, issued under the same circumstances as was the title in

the case of archive 916. In both cases it is stated that the lands had been in the first instance donated by the justice of the peace of that jurisdiction "by superior order;" that is, by the order of some superior authority.

No. 86. **1844.**

Archive No., 75. October 8. Nasario Aguilar grant. By Tomas Ortiz, judge of first instance.

This is a revalidation of the titles to two allotments of land, the extent of which is not stated, situated on the Mora River, and both of them being in all probability allotments under the Mora grant.

No. 87. **1844.**

Archive 70. October 12. Juan Lorenzo Alire grant. By Tomas Ortiz, judge of first instance.

This appears to be the issuing of a title to an allotment of 200 varas of land which had been made originally in 1835, but for which no instrument had been drawn up. The lands are within the Mora grant and were probably one of the allotments made thereunder in 1835.

No. 88. **1845.**

March 15, 1845. Ojo de la Cabra grant. By the departmental assembly. Reported No., 106. Suit No. 167 in Court of Private Land Claims. Rejected by the Court of Private Land Claims November 30, 1896. On appeal in the Supreme Court.

This was a grant of 1 square league of land, for which petition was made to the prefect of the third district,

Francisco Sarracino, by him referred to the common council of Valencia for report, which, having been made, he then transmitted it to the governor in order that he should transmit it to the departmental assembly, which body finally made the grant. The petitioner desired to use the land as pasture grounds for his cattle and horses, and had gone to some expense in sinking a well at the spring from which the tract took its name. The grant was subsequently revoked by the departmental assembly. There is nothing in the papers to suggest that it was an allotment under a grant previously made, nor that it was made for any other purpose than the pasturing of stock.

(See appellant's brief, pp. 12, 13, 14, 23, 25.)

No. 89. **1845.**

July 2. The Manuelitas grant. By the departmental assembly. Suit 242. Rejected by Court of Private Land Claims July 5, 1898.

The petition in this case was directed to the governor by Pedro Alcantar Vigil, for himself and in the name of nineteen persons whose names were in a list attached to the petition. They state that they desired the land, not only for themselves, but also for other persons who might be interested in the advancement of the new settlement. The governor was asked to lay the matter before the departmental assembly, which being done that body referred it to the prefects of the first and second districts, who were to require the justices of Mora and Las Vegas to report thereon. This action of the assembly was ordered by the governor to be carried into effect. The justice of the peace of Mora made report recommending that the grant be made for the river bottom lands, that the rest should be left for common pastures, and further suggested certain boundaries different from those asked for by the petitioners. The justice of the peace of Las

Vegas was opposed to making the grant on the ground that a portion of it was included in the grant to the town of Las Vegas. He says in effect that to colonize them there is contrary to law, because the land belongs to Las Vegas, but that they might be placed in possession of lands by the justice by the approval of the superior authorities. The assembly then made the grant with the condition that there was to be donated to them only the land they could cultivate, the rest remaining for the common benefit, as it had been up to that time. No act of possession appears, and consequently we do not know whether the assembly considered this a new grant or intended that the parties should receive allotments under the Mora or Las Vegas grants, although the former view appears to be more likely correct.

(See appellant's brief, pp. 8, 9.)

No. 90. **1845.**

November 18. The Gervasio Nolan grant. By Governor Manuel Armijo. Reported No. 39. Suit No. 46 in the Court of Private Land Claims. Rejected by the Court of Private Land Claims April 16, 1894. Appealed to the Supreme Court of the United States, and appeal there dismissed.

This grant was made to three persons, apparently in consideration of the services rendered to the country by all and especially one of them. It was for an immense tract of land upon which they particularly desired to raise stock, the amount of land susceptible of cultivation being small. The petition was directed to the governor, who, without the concurrence of the departmental assembly or the report of any subordinate official, made the grant.

(House Ex. Doc. 28, Thirty-sixth Congress, second session, p. 2.)

No. 91. **1845.**

November 28. The Bosque del Apache grant. By Governor Manuel Armijo. Confirmed by Congress June 21, 1860. Reported No., 35. (House Ex. Doc. 14, Thirty-sixth Congress, first session, p. 232.)

This was a grant made to Antonio Sandoval, in recognition of the valuable services he had rendered to the country "not only personally, but also with his property, in forced loans and in other ways." The grant was made "exempt from tax."

No. 92. **1845.**

December 7. The Estancia grant. By Governor Manuel Armijo. Reported No. 70. Suit No. 152 in the Court of Private Land Claims. Rejected by the Court of Private Land Claims December 20, 1898.

This grant was made to Antonio Sandoval, the same person to whom the Bosque del Apache grant, reported No. 35, was granted, and for similar reasons. The governor in his granting decree shows that he was led to make the grant in view of the valuable services which had been and were then being rendered to the country by Sandoval, who had performed the duties of prefect without pay until his back salary amounted to $9,000. The grant was made "free and exempt from all tax or tribute."

(Senate Ex. Doc. 40, Forty-second Congress, third session, p. 3.)

No. 93. **1845.**

December 31. The Cebolla grant. By Governor Manuel Armijo. Reported No. 61. Suit No. 108 in the Court of Private Land Claims. Confirmed by the Court of Private Land Claims September 5, 1896. On appeal in the Supreme Court.

This grant was made to five persons, who were left to divide the tillable lands among themselves and to fence them to avoid damages from stock. The language of the muniments indicates that they might have title in the irrigable lands only and did not have the right to prevent other persons from pasturing stock within the outboundaries of the tract.

(House Ex. Doc. 296, Forty-second Congress, second session.)

No. 94. **1846.**

January 5. The Salt Lake grant. By the State of Texas. Reported No. 161. Confirmed by Congress October 1, 1888.

This grant was made by the board of land commissioners for Bexar County, Tex., to one Simon Prado. The area is 160 acres, but it is not known under what law it was made. The land is situate in the central part of the Territory of New Mexico, and in that region which at one time was claimed as belonging to the State of Texas. The data in regard to this claim is very incomplete and consequently it can not be stated what was the consideration for the grant, if any.

No. 95. **1846.**

January 10. The Jornada del Muerto grant. By the departmental assembly. Reported No. 26. Disapproved by the surveyor-general of New Mexico, August 29, 1859, and subsequently rejected by the Supreme Court of the United States (13 Wall., 449).

The grant in this case was for an area of 2,000,000 acres, the grantees, two in number, binding themselves to sink two wells for the benefit of travelers crossing the long waterless stretch of country known as the Jornada del Muerto, to build two factories where persons convicted of crimes by the authorities would be received as laborers, and to provide arms for protection against the Indians, etc. The departmental assembly made the grant. There is no evidence in the papers that it was the intention to establish thereon a town, or to attempt to cultivate it, which was in fact impossible because of lack of water.

No. 96. **1846.**

February 9. The Cadillal grant. By Jose Francisco Báca y Terrus, acting prefect. File No., 90.

The petition for this grant was addressed to the common council of Santa Fe, which body referred it to the municipal attorney for report, upon the rendition of which the grant was made, and the first alcalde of the common council of Santa Fe was ordered to place the parties in possession. This he did, giving an allotment of 50 varas of land to each of sixty-one persons.

The petitioners in this case stated that they were citizens of Galisteo, and had been cultivating the lands for some years prior to the date of their petition. The lands

are partially, if not entirely, within the boundaries of the E. W. Eaton grant, reported No., 19, which has been confirmed by Congress.

While this grant is stated above to have been made by the acting prefect, it seems not improbable that the order to which his signature is attached is an order of the common council of Santa Fe, of which he may have been president, although at the time also acting as prefect.

These allotments may possibly bear the same relation to the Eaton grant as is borne to the Mora grant by the allotments described in archives 227, 473, 632, and 633, but the indefinite character of the documents makes it impossible to state positively that such is the case.

No. 97. **1846.**

February 13. The Gregorio Dabalos grant. By Pablo Melendres, justice of the peace of the Dona Ana Bend Colony. File No. 92.

This is an allotment of a tract of land 780½ varas square, made by the justice of the peace by virtue of the authority conferred upon him by the prefect of the district. This allotment was made under the Dona Ana Bend Colony grant, reported No. 85, which was confirmed by the Court of Private Land Claims March 25, 1896.

No. 98. **1846.**

March 10. The town of Chaperito grant. By the departmental assembly. File No. 7.

This grant was made by the departmental assembly to twenty-eight persons who desired to establish themselves

on the tract asked for with a view to farming it. Allotments of the tillable lands were made to them, and they had a common right to the pasture lands, which were half a league in extent around the settlement. It was provided, however, that all other persons who might subsequently settle on the grant were to enjoy the benefits thereof.

The lands in question, which include the present town of Chaperito, are situated within the boundaries of the Antonio Ortiz grant, reported No. 42, which was confirmed by Congress March 3, 1869, but there appears to be no connection between that grant and these allotments.

No. 99. **1846.**

May 7. The John Scolly or La Junta grant. By Governor Manuel Armijo. Reported No. 9. Confirmed by Congress June 21, 1860. (House Report 457, Thirty-fifth Congress, first session, p. 163.)

This grant was made to six persons who were to cultivate their lands within five years on the pain of losing them and having them given to someone else. It does not appear how large the allotments of tillable lands were, but the amount included within the limits fixed in the act of possession was 25 square leagues, but Congress in confirming the grant reduced this to 5 square leagues. This was evidently not a series of allotments under either the Mora or Las Vegas grants, although a large part of the land is in conflict with those grants.

(See appellant's brief, pp. 9, 10, 11.)

No. 100. **1846.**

June 4. The Sierra Mosca grant. By Governor Manuel Armijo. Reported No. 75. Suit No. 87 in Court of Private Land Claims. Confirmed by the Court of Private Land Claims, December 1, 1896. On appeal in the Supreme Court of the United States.

It was contended by the Government on the trial of this case that the petition, grant, and act of possession were forgeries. These documents purport to show that the grant was made by Governor Armijo to one petitioner, who stated that the tract contained fertile lands for cultivation, sufficient pasturage and waters, and everything else required and necessary for raising animals. The petition was dated June 3, 1846, the granting decree was dated June 4, and directed the petitioner to apply to the proper justice to be placed in possession of the land "in entire conformity to the laws in the premises." Four days later the grantee was placed in possession of a tract of land which is represented on a sketch map filed by claimants in the the surveyor-general's office as containing 115,200 acres.

(Senate, Ex. Doc. 3, Forty-third Congress, first session, p. 8.)

No. 101. **1846.**

July 21. The Nuestra Sonora de los Dolores mine grant. By Jose Albino Chacon, judge of first instance. Reported No. 162. Suit 147 in Court of Private Land Claims. Rejected by Court of Private Land Claims September 5, 1896.

This was a grant of six mining claims to four persons, made under the mining laws then in force in the Mexican Republic.